

# Employment Relations Matters



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# Contents

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## List of Tables

## Preface

- 1 Introduction: studying employment relations
- 2 Why employment relations matter
- 3 Coming to terms with the employment relationship
- 4 Institutions – the stuff of employment relations
- 5 Negotiation – breathing life into the employment relationship
- 6 Power – a matter of prepositions
- 7 Changing expressions of conflict
- 8 Understanding management
- 9 Trade unions and collective bargaining – the end of an era?
- 10 Public policy - balancing flexibility and security?

## Appendix The UK in comparative perspective

## List of tables

Table 1.1	Theorising's three perspectives
Table 2.1	Why employment relations matter: summary
Table 2.2	Incomes and taxes of 'high-income' individuals
Table 2.3	Models of work organisation
Table 3.1	'Contract' and 'status'
Table 3.2	Competing views of the work organisation
Table 3.3	'Varieties of capitalism': building blocks and links
Table 3.4	The 'psychological contract'
Table 4.1	Core processes and structures
Table 4.2	The structure of collective bargaining
Table 5.1	'Pacts for employment and competitiveness'
Table 5.2	Changing emphases in employment relations
Table 5.3	All benchmarkers now
Table 6.1	Three types of control structure
Table 7.1	Table 7.1 Annual average WDL per year, 1970–2003
Table 7.2	Annual Average Strike Participation rates, 1970–2003
Table 7.3	Changing pattern of strikes in the UK
Table 7.4	Changing pattern of UK Employment Tribunal cases
Table 8.1	HR policies and practices: Evidence from WERS
Table 9.1	Trade Union density, 1970-2005
Table 9.2	Union density rates and collective bargaining coverage
Table 10.1	'Economic' Europe and 'juridification' in the UK
Table A1.1	Social indicators
Table A1.2	Macroeconomic indicators
Table A1.3	Changes in international competitiveness
Table A1.2	National differences in work organisation

# Preface

This text deals with issues that, traditionally, have appeared under labels such as 'industrial relations', 'human resource management' and 'employee relations'. It adopts 'employment relations' as its title for two main reasons. The first is that it accurately describes what the text is about – it's about the employment relationship, the institutions involved in its 'governance' and the impact on a wide range of economic and social outcomes. The second is that it's increasingly difficult to use the traditional labels without causing confusion. Regardless of intention, 'industrial relations' is associated with trade unions, collective bargaining and strikes, while 'human resource management' and 'employee relations' are seen as being about managing relations with individual employees. It also seems that there is to be no meeting on the ideological plain – 'industrial relations' is assumed to be conflict-based, while 'human resource management' and 'employee relations' are said to be 'unitarist' and 'managerialist' in their approach. Meanwhile, ever-increasing fragmentation means that the area's overall significance gets lost sight of.

The text has the double intention that I've tried to capture in the title: to bring people up to date with the matters that the study of employment relations deals with and to explain why they matter. Trade unions and collective bargaining certainly feature – collective bargaining remains the dominant way of settling the pay and conditions of employment of employees in many EU countries; the same is true of the six million or so public sector employees in the UK. Employment relations is far from being just about trade unions and collective bargaining, however. It is also about work organisation – the nature and extent of managerial hierarchies and control structures, which have profound implications for health, personal development and a country's social capital stock; personnel policies and practices, which are critical not just for business performance, but also income levels, life chances, the family (the duration, distribution and flexibility of working time are especially important here) and the development of human and social capital (reflecting not just the nature and extent of continuing vocational training but also the opportunities for on-the-job learning and personal development); and the decisions of government and the judiciary (reflecting the state's role as 'guarantor of the employment relationship'<sup>1</sup>). It is no exaggeration to

## Preface

say that many of the objectives policy makers subscribe to – ending child poverty, enhancing the quality of family life, improving health, increasing social mobility and building a knowledge economy – depend to a very large extent on the quality of employment relations.

I've had two main audiences in mind in writing *Employment Relations Matters*. The first are those who teach and study in the area. For this group, the text is intended to be a resource. For example, it could be used as a stand-alone set of materials for a typically ten week programme. Alternatively, it could serve as a companion text to more traditional textbooks. Here it would provide a much-needed reality check for the texts used on Chartered Institute of Personnel and Development courses, where issues such as institutions, power, negotiation and conflict do not always receive the attention they deserve. The same is true of many 'Organisational Behaviour' courses on MBA programmes.

I appreciate that there are some excellent textbooks already available in the area. Arguably, however, there are several features that make *Employment Relations Matters* distinctive. First, it makes the employment relationship and its 'governance' the central focus and so is equally relevant to those teaching/studying courses labeled 'HRM' or 'industrial relations'. Second, it is analytical in approach, which means it does things that other textbooks are rarely able to do: it outlines the subject's approach, values and core assumptions, locating them within a wider critical social sciences framework; it reviews the relationship between employment relations and a number of economic and social outcomes, ranging from living standards through the quality of family life to macroeconomic performance; it goes beyond the description of institutions that is typically found to explain why they are so important; and its treatment of matters such as power, negotiation and conflict is also more extensive than it normally is. Third, and perhaps most important, it offers a framework that is comprehensive in its treatment and yet universal in its application. Indeed, it was this that posed the main intellectual challenge in its writing. Most current textbooks focus on one country and its institutions, making it difficult, especially for international students, to grasp the underlying messages. Although it mainly uses UK examples, *Employment Relations Matters* is comparatively informed throughout. Furthermore, its integrated and thematic treatment means that the text

## Preface

can be adapted to reflect other countries' experience. Indeed, the hope is that the text will be developed by scholars not just from the UK but also other countries, helping to develop the cross-national analytical framework that the subject needs.

The second audience I have in mind for *Employment Relations Matters* are practitioners and policymakers. I don't expect that too many in this group will read it, but I've tried to make the text as accessible as I can. Thus the text has summaries at the beginning of each chapter, is relatively concise in its style, is not over-burdened with academic debates, and keeps references to a minimum - they only appear where there is a direct quote or a substantial argument is being paraphrased; to avoid too many disruptions in the text, their details also appear at the end of each chapter. It is also primarily for their benefit that Appendix 1 draws attention to the UK's comparative performance, along with the missed opportunities for plugging some of the UK's institutional 'gaps' that this comparison reveals.

In the case of this second audience, the text has its origins in some very personal experiences. I can't remember the number of times I've found myself in recent years trying to explain what employment relations is about and why it matters. I can remember some of the specific occasions, however, the one I'm about to quote being typical of many others. I was talking to a senior official of a Regional Development Agency, stressing the importance of employment relations. A very perplexed look came across her face. She didn't think that this was a big issue in her region. She must have seen a pained look on mine. She quickly responded that she thought it was because they didn't have any car plants in their region and overall trade union membership was relatively low. It was only when the conversation moved on to issues such as productivity and absenteeism that her interest flickered. Even then there was some reluctance to accept that work organisation or, indeed, anything that was to do with the workplace, was important - as far as she was concerned, it was all about the supply side and skills etc etc.

Arguably, there are two main reasons for this state of affairs. The first is that those of us who teach and research in the area haven't done anything like enough to explain to the outside world how the study of employment relations has been changing and why it has continuing relevance to policy and practice. The result is that there are many

## *Preface*

myths and misunderstandings that have been allowed to perpetuate (see below). Certainly it has been difficult to point people in the direction of a single text that does these jobs, while many of the papers appearing at British University Industrial Relations Association conferences, as well as some public interventions, would suggest that there has been more talk than action about the subject changing. The second reason is that practitioners and policymakers have found the messages from economists and psychologists about the overriding importance of individual motivation more comforting than the ones they get from employment relations specialists about the significance of institutions.

Especially important here has been the ‘neo-liberal’ approach to running the economy. Since the 1980s, the emphasis has been on ‘markets’ and ensuring that they work effectively. Significantly, the government department with prime responsibility for the area in the UK, the Employment Relations Directorate, sits within the Business, Innovation and Skills’ ‘Fair Markets’ group - a major task, in the words of ‘Departmental Strategic Objective No 3’, is to ‘Deliver free and fair markets, with greater competition’. It isn’t just that organisations like trade unions and institutions such as collective bargaining tend to be viewed negatively. The role of the workplace as a key decision making unit is largely ignored as are the complexities of managing the employment relationship – the workplace is regarded as a ‘black box’ where participants are expected to respond economically rationally to the broader regional and national economic framework. Public intervention can only be justified on grounds of ‘market failure’. If managers are behaving in a particular way, it must be economically rational for them to do so; if not, the ‘market’ will correct. The idea of ‘institutional failure’ is rarely entertained and so the status quo goes unquestioned. Underpinning everything else is the view is that sensible governments don’t have much choice: globalisation is dictating the policy agenda. In Kay’s words, the principles of what is otherwise known as the ‘American business model’ or ‘Washington consensus’ (reflecting links with the Washington-based International Monetary Fund and World Bank) are ‘unavoidable’, ‘because global business will migrate to the jurisdictions closest to them’<sup>2</sup>.

It remains to be seen if the global financial crisis that ‘neo-

## *Preface*

liberalism' has helped to bring about creates a more receptive environment for the argument that employment relations matter. Certainly the 'market fundamentalism' at the heart of 'neo-liberalism' is being questioned – the talk is of the 'failure of market failure'<sup>3</sup>. In the real world, it is slowly being remembered, 'markets' do not exist in a vacuum; they do not automatically deliver efficient solutions and they do not necessarily weed out 'inferior institutions'<sup>4</sup>. Rather it is institutions, especially in the form of incentive structures, that give 'markets' their shape and structure; if these are fixed without reference to the needs of the wider society, as they have been in banking and finance, the results can be disastrous. 'Light touch' regulation, which is widely seen to have been a major factor in contributing to the crisis, is no longer the mantra it was. In this regard, much of what has been written about banking and finance could just as equally be applied to employment relations. Calls for a return to a more pragmatic approach that combines a mix of 'government' and the 'market' also chime well with the messy realities of employment relations.

In any event, two things are becoming clear. The first is that it is not just trade unions and collective bargaining that are under threat from the unfettered global capital market that has been allowed to develop. Arguably, something even more fundamental is at stake, which takes us back to the origins of the subject of employment relations at the end of the 19<sup>th</sup> century. The crisis suggests that the broad consensus underpinning the traditional model of the employment relationship for much of the post-World War 2 period is no more. Ideologically, 'financialisation' and 'casino capitalism' mean the dominance of 'nexus of contract' thinking and the notion of labour as something that is brought and sold just like other commodities. Practically, 'financialisation' and 'casino capitalism' mean 'permanent restructuring', along with the 'fragmentation of employment' and the undermining of the 'welfare state' system that has grown up to support the traditional model. In the process, the fundamentally important role of work organisations in developing human and social capital is in danger of being lost sight of, threatening many of the goals to which policy makers aspire. The same goes for their equally fundamentally important role in sustaining well-remunerated workforces who, as consumers, generate demand

## *Preface*

and so profitability and growth.

This brings me to my second point which is, arguably, better news from the point of view of the subject of employment relations. The crisis confirms, if it needed to be, that understanding of the employment relationship cannot be extracted from consideration of the wider political economy – approaches that focus exclusively on the organisation and, narrower still, on the individual ‘psychological contract’ simply don’t cut the mustard. At the same time, recent events reinforce the view that none of the traditional disciplines is in a position to shed much light on unfolding developments in the employment relationship and their considerable implications touched on above – partly because they are not centrally concerned with the employment relationship as employment relations is and partly because they tend to be more interested in burnishing the discipline than illuminating the specific issues in hand. As Flanders, one of the pioneers of employment relations study in the UK insisted many years ago, while the traditional disciplines have many valuable insights to offer, they tend to ‘tear the subject apart by concentrating attention on some of its aspects to the exclusion or comparative neglect of others ... a partial view of anything, accurate as it may be within its limits, must of necessity be a distorted one’<sup>5</sup>. A focus on the employment relationship, a distinctive multi-disciplinary approach grounded in critical social science and a mix of quantitative and qualitative research methods means that employment relations is uniquely qualified to highlight the fundamental importance of the employment relationship, what is happening to it and the wide-ranging implications likely to be involved.

A great many people have helped to make this text possible. They range from the national newspaper managers and trade union and Chapel officials of Fleet Street in the 1960s, through colleagues and students of the University of Warwick’s Business School and Industrial Relations Research Unit in the 1970s, 1980s and 1990s, to the research community of the European Foundation for the Improvement of Living and Working Conditions in the 1990s and the staff of Acas in the first half of the ‘noughties’. In no small measure, it’s the accumulation of their knowledge and wisdom that I’m capturing and reflecting here. I’ve never ceased to be stimulated by the issues that employment relations deals with and couldn’t think of a

## *Preface*

better way of thanking them for helping to make it so.

The same sentiment also helps to account for the form of the publication. Here, though, there were also some eminently practical considerations, Weighing up the pros and cons of the traditional publication route as against the internet proved a 'no brainer' for someone who no longer has to bother about Research Assessment Exercises and the like. Time to publication via the traditional route would have been months at least. Heaven knows how much the final publication is likely to have been, but one thing is certain - I would have received but a small fraction in royalties. An internet publication not only means reducing both time and price/costs considerably. A *Creative Commons Licence* means that it will also be possible for colleagues to update, adapt and develop the text, helping to create the cross-national framework that the study of employment relations needs for its further development.

Keith Sisson

## *Preface*

### **Some employment relations myths**

1. Employment relations is about trade unions, collective bargaining and strikes. Not true. It's about the 'governance' of the employment relationship regardless of the presence of trade unions and collective bargaining.
2. Anyway, the decline of trade unions and collective bargaining means that institutions are no longer important. Not true. Institutions are the 'stuff' of work organisations - most are the responsibility of managers.
3. But the decline of trade unions and collective bargaining at least means a reduced role for negotiation. It doesn't. Negotiation is as much a feature of employer-employee relations as it is of management-trade union ones. Negotiation is a collection of processes that all of us use to define and redefine the terms of our interdependence with one another.
4. The decline in strikes means that there must be little or no workplace conflict. It doesn't. In the UK, the number of individual Employment Tribunal cases has been rising and forms of 'unorganised' conflict such as absenteeism maintaining a steady level.
5. The UK suffers from too much employment protection regulation. It doesn't. Only the USA has less such regulation than the UK. A major problem is that the UK lacks the social dialogue and collective bargaining structures of many of other countries to transpose EU measures by agreement.
6. Flexibility is everything. Not so. Managers cannot cope with too much flexibility. Management is the source of the bulk of the rules involved in governing the employment relationship.
7. Lack of employee engagement is largely a question of attitudes, which can be solved by motivational programmes. It isn't and it

## *Preface*

can't. It's largely a question of peoples' work experience and requires changes in underlying structures.

8. Most problems will be resolved by moving into the knowledge work/economy. They won't. There has to be an increase in the demand for as well as the supply of skills. In the 'restricted' as opposed to 'expansive' learning environment characterizing many UK workplaces<sup>6</sup>, investment in skills could be tantamount to pouring money down the drain.
9. Competition will force changes in management's approach. Not necessarily so. Many organisations are locked into traditional ways of organising work and management is not fully exploiting the available opportunities to improve performance and profitability.
10. Globalisation means that managers, along with governments, have little choice in their approach. Not so. For example, the nature and extent of managerial hierarchies is a question of degree. Proportionately, Sweden has only a quarter of the number of people involved in management and supervision as the UK.

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# 1

## **Introduction: studying employment relations**

### **Main tasks**

- **Clarify the subject matter of employment relations**
- **Outline its approaches to theorising**
- **Review the methods it uses to acquire knowledge**

### **Summary**

Although mainly taught in business schools in the English-speaking world, employment relations' intellectual roots are firmly rooted in the social sciences and a particular academic tradition dating back to the end of the 19 century. The subject deals with an extensive list of employment-related subjects, but also has a robust analytical focus, which may be summarised as the 'governance of the employment relationship'. It sees the employment relationship first and foremost as a managerial one – with all the uncertainty, contradictions and potential for conflict that such a relationship entails: the employee receives tangible and intangible rewards in return for the employer's right to direct them to do their bidding. It pays particular regard to the complex 'multi-level governance' regime of institutions or rules involved in the exercise of the employer's discretionary rights. This embraces organisation structure and job design, personnel policies and practices, legislation that the state introduces in attempting to strike a balance between the flexibility and security intrinsic to the employment relationship, and the efforts of employees' trade unions and professional organisations to influence the rules and rule making processes. In terms of its approach, employment relations is an area of study rather than a discipline. Indeed, its distinctive feature is that it is multi-disciplinary - more concerned with developing theory' in'

## EMPLOYMENT RELATIONS MATTERS

employment relations than developing a theory 'of' employment relations. Examples of all three approaches to theorising can be found in the employment relations literature, i.e. 'positivism', 'social constructivism' and 'critical realism'. The dominant one, however, approximates to 'critical realism'. Employment relations seeks to identify key regularities and asks why they occur as they do, what are the underlying mechanisms producing them and any variations, what effects do they have and what are the conditions under which they happen. To acquire such knowledge, employment relations has always put strong emphasis on empirical inquiry, using both quantitative and qualitative methods. In the UK, this has been reinforced with the regular undertaking of the representative Workplace Employment Relations Survey. In recent years, there has been an increasing tendency to combine induction with deduction, where the researcher starts with a proposition or hypothesis derived from established facts or theoretical assumptions.

### **A core principle**

Although, especially in the UK and USA, it is mostly taught in management and business schools, 'employment relations' does not see itself serving one particular interest group - it is relatively 'inclusive' or impartial in terms of the interests involved in the employment relationship that is its focus. It also does not claim to offer quick-fix solutions to the problems these groups experience. Rather it seeks to hold a mirror up to what goes on in the world of employment, its practical relevance lying in the improved quality of data and analysis that policy makers and practitioners can draw on about what 'works' and 'doesn't work' and 'why'. Crucially, its intellectual roots are firmly rooted in the social sciences, being grounded in a particular academic tradition that dates back to the end of the 19th century. At one and the same time, this was both theoretical and practical - it was about understanding the world of employment and drawing implications for practice and policy. In the UK, pioneers of this tradition were the likes of Sidney and Beatrice Webb, whose *History of Trade Unionism* and *Industrial Democracy* were among the first works to prioritise empirically grounded analysis; in the USA, their counterparts were John Commons and his colleagues at the University of Wisconsin -

## *Introduction: studying employment relations*

*Industrial Goodwill* and *Institutional Economics* were among the books that laid the foundation for institutional analysis more generally.

The tradition's values are distinctive as well as powerfully grounded. As Kaufmann, the subject's main historian, emphasises, the starting point is a core principle that is 'both positive and normative. Stated in the affirmative, this core principle asserts that *labor is human*; stated in the negative it asserts *labor is not a commodity*'<sup>1</sup>. He reminds us that this core principle is most prominently displayed in the Constitution of the International Labour Organisation (ILO), created by the Treaty of Paris and signed in 1919 at the end of World War I. The first of nine principles enumerated in the ILO Constitution reads: 'Labor should not be regarded as a commodity or article of commerce'. The point is that, unlike other resources, 'human resources' are embodied in people and cannot be 'commodified'. Moreover, employers do not own employees in the way they do other resources – if they did, it would be tantamount to slavery. A further consideration is that, in democratic societies, employees are citizens, who have the right to vote to determine those who govern and the way that they govern; they are also encouraged to have expectations about justice and due process.

It also follows that to talk in terms of a 'labour market' is to give a false impression of what is at stake in the employment relationship. Certainly the overall levels of employment can rise and fall, reflecting changes in the demand for specific products and services. But, as Chapter 3 explains in greater detail, nothing is automatic about the employment relationship. For example, employers are not limited to hiring and firing employees in response to changes in such demand. They can ask existing employees to work harder or smarter. To encourage them to do so, they can also pay some employees higher wages at the same time as making others redundant – something which traditional labour market analysis sees as irrational and yet which is perfectly sensible if motivation is built into the equation.

The subject's ethical position has never been seriously questioned. It is a different matter, however, in the case of the other three inter-linked issues that any area of university level teaching has to be clear about. These are the subject matter or ontological question; the approach or epistemological question (what is knowable about the subject matter); and the methodological question (how the knowledge can be acquired).

Here there has been considerable reflection and introspection in the light of recent changes in the world of work such as the shift in employment from manufacturing to services, the increasing feminisation of the workforce and the decline of trade union membership and coverage of collective bargaining. This has often been interpreted as a sign of crisis. Arguably, however, this process has given rise to something of a consensus about the essentials for further development. The result is a pretty robust framework that any area of study needs to address if it is to have enduring status.

It is with the subject matter, approach and methods of employment relations that this opening chapter is concerned. In each case, the discussion tries to give a flavour of the current state of play, the history of developments and the key influences. It also covers the main variations and nuances that the reader will come across in the literature dealing with employment relations.

### **Subject matter**

As the Preface suggests, employment relations deals with a fairly extensive list of employment-related subjects – these range from the changing composition of the labour force and the nature of work organisation, through personnel policies and practices, to the structure of collective bargaining and the national legal framework, along with the role and functioning of the many representative organisations and government agencies involved. Employment relations is more than just a collection of related topics, however. Although it may not always be made explicit, employment relations has an analytical focus, which may be summarised as *the governance of the employment relationship*. If a more encompassing statement is required, it might be *the institutions involved in governing the employment relationship, the people and organisations that make and administer them, and the rule making processes that are involved, together with their economic and social outcomes*.

#### *The employment relationship: concept and conduct*

The employment relationship has always been there or thereabouts in employment relations, but during the so-called ‘golden age’<sup>2</sup> of the subject (i.e. the 1950s, 1960s and 1970s) was more or less taken for granted: the main emphasis, which reflected the concerns of policy

## *Introduction: studying employment relations*

makers and practitioners, was on the role of trade unions and collective bargaining in fixing the terms and conditions of the relationship, along with the strikes and other forms of industrial action that often accompanied them. In recent years, there has been a return to prioritising the employment relationship that was a feature of earlier generations. The result is the development of a very particular perspective on the employment relationship, which Chapter 3 sets out in some detail.

For present purposes, it is enough to note that the distinguishing feature of the employment relationship is that it is not so much a market or psychological or legal one. Rather, as this summary suggests, it is a managerial one – with all the uncertainty, contradictions and potential for conflict that such a relationship entails:

- The basis of the exchange is security and flexibility - employees receive tangible and intangible rewards, in return for which employers acquire the right to direct them to do their bidding.
- The nature of the exchange is, by definition, indeterminate, continuous, contradictory and exploitative, with cooperation and conflict being integral features.
- Regardless of the presence of trade unions, the process of the exchange is essentially political involving on-going negotiation, implicit as well as explicit, against the background of an asymmetrical or unequal power relationship.

Complicating matters is that, although ‘the employment relationship is by definition one between an employee and an employer’<sup>3</sup>, yet it is not exclusively private as much of the human resource management literature encourages us to assume. For the great majority of employees, employment is a collective activity. Employees typically work in groups. Many belong to trade unions or professional organisations. For their part, managers find it inefficient to differentiate between individual employees because of the costs and so most contracts of employment take a ‘standard form’<sup>4</sup>. Their behaviour also reflects the organisations in which they work, the nature and extent of the targets and controls they are subject to being especially important. These organisations, in turn, are not islands unto themselves, being typically part of a larger enterprise - the Workplace

## EMPLOYMENT RELATIONS MATTERS

Employment Relations Survey (WERS) estimates that, of workplaces in the UK with more than 10 employees in 2004, just over two-thirds (68 per cent) were units of larger organisations<sup>5</sup>. Complicating matters further, as the next section emphasises, is that such enterprises operate in a complex multi-level institutional environment, where sectoral, national and supranational influences increasingly interact.

Employment relations is not just concerned with concepts, however. The employment relationship is also one of the main social institutions in a capitalist society: it is something that the great majority of us are involved in for much of our lives. As Chapter 2 demonstrates, the conduct of the employment relationship can be shown to have a considerable impact on a wide range of economic and social issues such as health, personal development opportunities, the family and the development of social capital; organisations and business performance; and significant macroeconomic considerations such as the trade off between wages and employment and the links between inequality and productivity.

### *Institutions: causes and consequences*

Accompanying the renewed emphasis on the employment relationship has been a re-affirmation of the importance of the *institutions* involved in its governance. One reason for this has been the need to confront the argument that a decline in the institution of collective bargaining means that employment relations runs out of the things to study. Certainly the causes and consequences of the structure of collective bargaining (i.e. its levels, units, scope and form) have figured prominently in employment relations studies. There has also been considerable emphasis on how the structure of collective bargaining has evolved and is changing, with particular emphasis on the impact of economic globalisation (i.e. the growth of trade liberalisation and the development of a global capital market) and regionalisation (particularly in the form of greater European economic and social integration).

But collective bargaining is not the only institution that employment relations is concerned with. An 'institution', in the words of the Concise Oxford Dictionary, is an 'established law, custom, or practice'. If a more detailed definition is required, the Penguin Dictionary of Sociology suggests that 'institution' is 'a term widely used to describe social practices that are regularly and continuously

repeated, that are sanctioned and maintained by social norms, and that have a major significance in the social structure'<sup>6</sup>. Two main types may be identified – the substantive rules that cover the 'what' of the employment relationship and the procedural ones that deal with the 'how'. In each of these areas, the institutions involved can also be informal as well formal. In Edwards' words, a rule or institution 'can comprise beliefs, ideologies and taken-for-granted assumptions as well as formal provisions of rights and obligations'<sup>7</sup>. Not only do the informal norms and expected patterns of behaviour of work groups typically sit alongside the formal rules. There can also be a mix of formality and informality in the administration of the rules. One example is the 'psychological contract' that will be discussed in more detail in Chapters 4 and 5. In the Chartered Institute of Personnel Development's (CIPD) words, 'The psychological contract ... may be more influential than the formal contract in affecting how employees behave from day to day'<sup>8</sup>.

On the basis of these definitions, institutions are the stuff of work organisations, the provisions of collective agreements and legislation being but the tip of the iceberg. The conduct of the employment relationship entails a hierarchy-based structure in which some (managers) make rules and others (employees) are expected to obey them. There are institutions that deal with the organisation of work, i.e. job design, the grouping of jobs into activities and the structures used to co-ordinate these activities. There are institutions that deal with recruitment and selection and training and development. There are institutions that deal with 'performance management', i.e. the type of payment system and the level of wages, the working time arrangements, the disciplinary arrangements and so on. To put no finer point on it, without any 'rules of the game', there is no organisation.

Moreover, despite their high profile campaign against the 'burdens of regulation', it is management that in recent years has been adding to the stock of institutions dealing with the employment relationship. Most obvious are arrangements for appraisal and target-setting, together with individual performance pay and share option schemes for senior executives. Supposedly, today's 'knowledge organisation' 're-engineered corporation', 'network organisation', 'boundary-less company' and the like bring greater individual initiative and local autonomy<sup>9</sup>. Yet, because of the nature and extent of the

targets built into performance management systems, many employees complain that they have less discretion than they used to<sup>10</sup>.

The second consideration behind the renewed emphasis on institutions reflects developments in the social sciences more generally. The irony is that, at a time when some people appear to want to bury 'institutions' in employment relations, many in the traditional disciplines have been emphasising or re-emphasising their importance. The result is a growing literature dealing with what has come to be known as 'new institutionalism'. This means that employment relations is increasingly able to draw on a potentially rich harvest in terms of language, concepts and approaches that is helping to analyse and explain the causes and effects of these institutions; to clarify the nature of and role for theory, more of which below; and to contribute to the wider debate on institutions, which is helping to broaden the subject's appeal as well as sharpen its analytical content.

At the risk of over-simplifying matters, three main tendencies or schools of 'new institutionalism' may be identified: 'rational choice', 'sociological' (sometimes referred to as 'organisational') and 'historical'. There is a measure of agreement about the definitions of institution, which are consistent with those quoted earlier. Both formal and informal institutions are also covered, with the 'sociological' tendency in particular emphasising the cognitive or 'second nature' dimensions of many institutions. Most importantly, all three emphasise the importance of institutions as 'rules of the game' which not only constrain but also enable. In Campbell's words, 'Institutions are the foundation of social life ... [they] help determine how people make sense of their world and act in it'<sup>11</sup>.

The differences between the three tendencies, which Chapter 4 deals with, mainly revolve around the relationship between actors and institutions and reflect their different disciplinary roots. 'Rational choice' institutionalism reflects its origins in economics and 'methodological individualism'. Actors are assumed to have standardised and stable preferences defined by their personal or organisational self-interest. The approaches in 'sociological' and 'historical institutionalism' reflect their roots in organisational psychology, politics and sociology. Rather than being standardised and stable, preferences are seen to be time and context-dependent

One implication of 'new institutionalism' deserves particular emphasis: it has encouraged the adoption of 'governance' as

employment relations' analytical focus. The subject's long-standing focus, i.e. 'job' or 'employment regulation', had come to have little meaning for most people - it is something that even employment relations scholars rarely made a central focus of their work. Complicating matters is that the term 'regulation' has come to be viewed very negatively, being narrowly associated with individual employment rights. Perhaps not surprisingly, in the absence of a widely recognised focus, many of the myths and misunderstandings about employment relations highlighted in the Preface have been allowed to perpetuate: for example, that it was essentially concerned with 'problem' issues such as strikes, which had been 'dealt with'.

'Governance' is an umbrella term embracing different arrangements for handling exchanges and transactions such as the employment relationship. Initially, two main types of governance structures were proposed, 'markets' and 'hierarchies' (organisations), the choice between the two boiling down to the transaction costs involved in negotiating, drafting and, most critically, administering/enforcing contracts. Increasingly, however, it is accepted that there are other forms of 'governance' as well. Most obviously in the area of employment relations, there are the activities of 'government' and 'association' in the form of collective bargaining between groups of employers and trade unions. Other forms, which will be discussed in Chapter 3, include 'community' and 'network'.

'Governance' is not just a matter of language or fashion. First, and fundamentally important, it helps us to answer what has been described as the 'baseline question ...antecedent to all others' in employment relations, i.e. 'Why is there an employment relationship and under what conditions will societies choose to use an employment relationship in the production of goods and services?'<sup>12</sup>. Essentially, as Chapter 3 will explain in more detail, the employment relationship is preferred over a contract for labour services because it gives employers residual control rights over employees in exchange for employees enjoying a measure of employment security. Second, it reminds us that the hierarchy entailed in exercising these rights is an intrinsic feature of the employment relationship – however extensive collective bargaining and legal enactment may be, management remains responsible for the basic parameters of the 'governance' regime in the form of the organisation structure, job design and

## EMPLOYMENT RELATIONS MATTERS

personnel policies and practices. Third, ‘governance’ is more encompassing than ‘regulation’. At one extreme, it embraces organisation structure and work organisation. At the other, as well as highlighting the multi-level character of the arrangements involved in the employment relationship, it enables us to make much better sense of the ‘softer’ governance instruments that have come to prominence in recent years such as ‘benchmarking’ and ‘coordinated bargaining’, the EU’s ‘social dialogue’ arrangements and the Lisbon strategy’s ‘open method of coordination’. Fourth, it offers a much more realistic and potentially fruitful paradigm for policy making. It not only accurately portrays the issues policy makers have to consider – much more so than the currently dominant ‘labour market’ paradigm – but also gives greater legitimacy to their involvement.

A closely associated term is ‘multi-level governance’. At first sight, ‘multi-level governance’ appears to be little more than a statement of the obvious: most organisations, like nation states, comprise several levels of decision making – department, workplace, company, division and so on. There is more to the usage of the term than description, however. Typically, ‘multi-level governance’ situations involve public and private sector actors and are negotiated rather than defined by a formalised framework. Relationships are also very fluid and often contested. Olsen’s portrayal of the EU’s development could just as well be applied to the development of the ‘governance’ arrangements involved in the employment relationship: a history of ‘informal and gradual institutional evolution’ as well as ‘founding acts and deliberate institution building’<sup>13</sup>. At each step, developments have been highly contested and the outcome is best imagined as the complex consequence of the acts of multiple political and economic agents with differing views about the speed and direction of development and also the destination. Tensions abound, with complexity, uncertainty and instability typically the defining characteristics.

‘Multi-level governance’ also raises highly significant policy and practical issues revolving around the balance between ‘heteronomy’ and ‘autonomy’, i.e. central regulation, on the one hand, and local responsibility, on the other. There are important implications, for both public and private sector organisations, relating to the responsibilities of the different levels of management, the nature and extent of the autonomy of individual business units and the ‘tightness’ and

### *Introduction: studying employment relations*

‘looseness’ of head office controls. At national and EU levels, the ‘heteronomy-autonomy’ issue is mirrored in debates about ‘subsidiarity’ (the balance between and national level decision making) and the form of legal intervention. Noteworthy here are the debates about ‘procedural’ and ‘reflexive law’, i.e. the extent to which ‘the preferred mode of intervention is for the law to underpin and encourage autonomous processes of adjustment, in particular by supporting mechanisms of group representation and participation, rather than to intervene by imposing particular distributive outcomes’<sup>14</sup>.

As in the case of the employment relationship, the focus on institutions is not just for their own sake, which is a criticism that has been made in the past. Rather it is because, to borrow a phrase from ‘new institutionalism’, they are the ‘rules of the game’ linking practice and performance. In formal terms, the governance structures involved in the employment relationship are to be seen as an intervening or mediating variable as well as a dependent one. This means that they have both causes and effects. The generic features of the employment relationship do not exist in a vacuum. Not only do they find expression in institutions that are deeply embedded in the many ‘varieties of capitalism’, reflecting the interplay between internal performance issues and external market, technological and political developments, but they also have a very significant effect on the key economic, social and political outcomes that are the subject of Chapter 2.

#### *Variations on a theme: ‘materialists’ and ‘institutionalists’*

Hardly surprisingly, there are different emphases to be found in employment relations studies. Historically, there was a tendency to talk in terms of two main ideal-typical positions: ‘radical’ and ‘pluralist’. Much more meaningful is to see employment relations studies involving ‘materialists’ and ‘institutionalists’<sup>15</sup>. Although to be a ‘materialist’ is not necessarily to be a ‘Marxist’, the starting point is Marx’s analysis of capitalism. ‘Materialists’ hold that the ‘material’ or productive base of society is the dominant consideration in accounting for a society’s institutions. Thus, they argue that it is the prevailing ‘market capitalism’ that gives rise to the main features of the employment relationship discussed earlier along with the associated

institutions and modes of thought. Blyton and Turnbull put the point like this: “It is these features of the employment relationship – *the creation of an economic surplus, the co-existence of co-operation and conflict, the indeterminate nature of the exchange relationship, and the asymmetry of power* – not the institutions of trade unions, employers’ associations or government agencies, that makes the subject of employee relations distinctive”. (*their emphasis*)<sup>16</sup>.

There are important implications for the both the level of and the approach to analysis. The focus on the employment relationship or, to use the preferred term, the ‘labour process’, makes the workplace itself the centre of attention and case studies the favourite research method. ‘Materialists’ also operate within a predominantly deductive paradigm. In their research and writings, the main activity is involved in demonstrating how the ‘structured antagonism’ they associate with the employment relationship works out in practice.

A further implication is that many ‘materialists’ do not see it as their job to tease out the policy or practical implications of their work. Indeed, some do not see their role to be that of empirical researchers at all. Rather they see their main task to be one of ‘demystification’ - developing critiques of the prevailing managerial and government ‘wisdoms’, for example, about ‘flexibility’ or ‘partnership’ or ‘high performance working’ or the links between ‘globalisation’ and employment relations. Their starting point also leads them to question the likely effectiveness of what they would regard as ‘institutional engineering’ designed to manage the conflict that they see as intrinsic to the employment relationship in a ‘market capitalist’ society.

The second group, the ‘institutionalists’, embrace the main stream and is the dominant influence on this text. As the label suggests, ‘institutionalists’ tend to concentrate on the ‘rules of the game’, the organisations that make and administer them, and the rule making processes that are involved. They recognise that the employment relationship is fundamentally important and that it is what distinguishes the field of employment relations from others. They do not accept, however, that the nature of the employment relationship is a ‘given’ in the way that some ‘materialists’ see it - it differs from occupation to occupation as well as from country to country. Just as the activities of institutions cannot be understood in isolation from the employment relationship, so the employment relationship cannot be

understood in isolation from the arrangements that govern it. The 'governance' arrangements can and do make the difference.

Again, there are important implications for the both the level of and the approach to analysis. 'Institutionalists' tend to focus as much on the wider institutions of employment relations as they do on those to be found inside the workplace. This helps to explain the focus on trade unions and the structure of collective bargaining, along with the nature and extent of the legal regulation.

'Institutionalists' can also be said to be 'pluralist' in their approach. They accept that conflict is endemic to the employment relationship. They do not go so far as some 'materialists' tend to, however, in denying the possibility of seeking a better balance of interests between employers and employees to the mutual advantage of both – the balance between cooperation and conflict is an empirical question. They therefore tend to go further than 'materialists' do in considering the implications of their research for policy and practice. Not surprisingly, the emphasis tends to be on institutional reform.

### **Approach: theory 'in' rather than theory 'of'**

If subject matter is about the nature of a study, approach is about its purpose, raising the fundamental issue of the role for and nature of theory or *epistemology*. Here too 'new institutionalism' has proved to be a breath of fresh air. In particular, it has encouraged a rich variety of positions leading to an increasing acceptance that it is inappropriate to think in terms of one universal standard. Rather theorising can be variable, reflecting 'different assumptions about the nature of the ... reality being investigated, the extent of the knowledge we can hope to acquire of it, and the strategies appropriate to its analysis'<sup>17</sup>.

Three main perspectives on theorising can be found in the institutional literature. As Table 1.2 outlines, one is 'positivism', which is closely associated with the 'rational choice' institutionalism introduced earlier. The other two are 'constructivism' and 'critical' or 'scientific realism', which more loosely reflect contributions from the 'sociological' 'historical' and schools of institutionalism. Following Hay, these perspectives can be contrasted on a number of dimensions:

## EMPLOYMENT RELATIONS MATTERS

- *The role of theory.* The main distinguishing feature involves expectations about the type of explanation and whether or not the aim is the discovery of laws dealing with empirical regularities.
- *Theoretical assumptions.* Especially important here is the extent to which the world is seen as characterised by regularities; whether the main actors are thought to be individuals and/or groups; whether rationality is regarded as universal or context and time dependent; the degree to which social systems are thought to be closed or open; and the causal role for ideas.
- *Analytical approach.* The critical consideration here is the balance between induction and deduction. The first privileges evidence and observation and, on the basis of these, tries to draw some generalisable conclusions. The second starts with a proposition or hypothesis derived from established facts or their theoretical assumptions. It then uses empirical enquiry to confirm, reject or modify the initial proposition.
- *Methods.* The main contrast is between, on the one hand, comparative and historical analysis and, on the other, modelling, i.e. developing idealisations that seek to portray the essential features of a situation.
- *Values.* Especially important here is the relative priority accorded to the complexity or parsimony (i.e. simplicity and succinctness) of the assumptions that are made, together with the emphasis placed on their realism<sup>18</sup>.

All three perspectives can be found in the employment relations literature. Here again, though, it is possible to identify two main positions. The first holds that employment relations should aspire to be a discipline and develop an integrated theory 'of' employment relations that seeks explanation in terms of the law-like and predictive approach of the 'positivist' perspective. In most cases, the starting point is Dunlop's seminal *Industrial Relations Systems* published in 1959<sup>19</sup>. Put briefly, this sees employees, employers, trade unions, employers' organisations and governments as members of an interlocking system of institutions, processes and rules working to its own internal logic, but shaped by technology, markets and the distribution of power in the wider society.

## *Introduction: studying employment relations*

The second, and dominant, view is that the subject should focus on developing theory ‘in’ employment relations<sup>20</sup>. One concern is the systems approach underlying Dunlop’s framework does not reflect the contested nature of the field. Another consideration is that, although the subject can claim a specialist focus in the employment relationship, it does not make sense to see it as a ‘largely self-contained sphere of social life’<sup>21</sup> – the financial crisis has shown the weaknesses of doing this in the case of the traditional disciplines. Another concern is the level of abstraction that would have to be involved in a theory ‘of’: the context-dependent phenomena of employment relations do not easily lend themselves to such an approach as the difficulties in developing Dunlop’s framework confirm.

In a much-used phrase, employment relations is multi-disciplinary. Roughly translated, this means two things: first, building on and seeking to integrate the often contending insights from the traditional disciplines of economics, sociology, psychology, law and politics; and, second, focusing on what is sometimes described as ‘middle range’ theorising, i.e. achieving greater understanding of the causes and consequences of the key institutions involved in governing the employment relationship – for example, the enduring features of work organisation or the structure of collective bargaining.

In the language of Table 1.2, the dominant approach approximates to ‘critical realism’. Employment relations does not seek to derive general laws or predict outcomes. Rather it seeks to identify key regularities and asks why they occur as they do, what are the underlying mechanisms producing them and any variations, what effects do they have and what are the conditions under which they happen. In doing so, it is also very careful to emphasise the contingency of events and the importance of context.

Thus, a more or less common concern is with the why and wherefore of the changes taking place, helping to account for the subject matter of Chapters 8, 9 and 10. In Chapter 8, the focus is on the nature, extent and direction of change in management’s approach, carefully distinguishing between the differences at workplace and company level in the light of developments in ‘financialisation’, i.e. the shift in the basis of competition from products and services to financial results in the form of current and projected cash returns on

## EMPLOYMENT RELATIONS MATTERS

investment. In Chapter 9 it is on the decline in trade union membership and collective bargaining and the reasons for them. In Chapter 10, it is on the role of the state and its seemingly changing agenda. On the one hand, most governments seem to have been withdrawing from some of their traditional activities: there is also talk of the 'hollowing out' of the state and the delegation of duties and responsibilities to other social actors or executive agencies<sup>22</sup>. On the other, there has been a very considerable increase in legal enactment ('juridification').

Tackling these issues is requiring employment relations scholars to engage with wider debates about theorising in the social sciences, reinforcing the importance of a multi-disciplinary approach. This is because accounting for diversity and change involves a number of 'big' knowledge questions that are to a greater or lesser extent common across the social sciences, i.e.:

- structure and agency - how much choice do actors have?
- the relative importance of economic and political forces
- the role of ideas and ideology
- the role of power
- the relative importance of different levels of activity (individual, the workplace, the organisation, the sector, the societal) and the relationship between them
- the relationship between behaviour and context - the extent to which actors are driven by individual preferences that apply universally or that reflect different contexts and experience.

In terms of the disciplinary mix, employment relations has always been a 'broad church'. This is above all true in the UK. Arguably, the history that was the starting point for several of the pioneers in the UK was more accommodating of other disciplines than the economics that dominated and still dominates employment relations in the USA. A *British Journal of Industrial Relations* editorial statement nicely captures the mood in encouraging a 'pluralism' not just of interests but also 'disciplines' and 'styles of work'<sup>23</sup>. The statement is also spot on in discussing the balance of disciplinary influence. Labour economics has a 'strong presence', but is not 'sovereign'. If there is a growing influence, it is that of politics, reflecting interest in theories of

'contentious politics'<sup>24</sup> as well as the institutional 'turn' discussed earlier. Also growing is an interest in jurisprudence, i.e. the theory and philosophy of law, which is necessary not just to appreciate the increasing 'juridification' employment relations matters, but also variations in the extent to which legal rules are implemented in countries reflecting 'common law' and 'statute law' traditions.

Some worry that employment relations' approach is too eclectic. Yet being multi-disciplinary and coherent are not incompatible if, as it increasingly is, the subject is held together by shared values, a fair measure of consensus about the key issues and a distinctive approach in terms of the questions posed and methods used. Arguably, as the Preface emphasised, an approach that is grounded in the traditional disciplines runs the risk of leading to even greater fragmentation. Labour economics is primarily concerned with the supply and demand of labour. Sociology deals with issues of work and employment in general. Psychology is concerned with the individual, while Law focuses on the legal dimension. A main concern of the traditional disciplines, especially economics and psychology, also tends to be with confirming the theoretical propositions or methods of the discipline; the result is that understanding of issues often takes second place.

## **Methodology**

Historically, employment relations was renowned for being very empirical in the choice of methods to acquire its knowledge. In the UK, in the words attributed to the Research Director of the 1965-8 Donovan Royal Commission (Lord McCarthy), 'an ounce of facts is worth a ton of theory'. Employment relations certainly puts great store by induction – most studies tend to privilege evidence and observation and, on the basis of these, try to draw some generalisable conclusions. A key consideration in the UK is that employment relations is also more or less unique among subjects taught in business schools in that it is able to draw on a large regular representative investigation of policy and practice at workplace level in the form of the *Workplace Employment Relations Survey*. Begun in 1980, WERS has been repeated on no fewer than four occasions (1984, 1990, 1998 and 2004) and has been important in providing a wealth of empirical data about both the collective and individual dimensions of employment relations

practice in the UK. Not only has interpreting these data been a major activity of employment relations scholars and launch pad for fresh research. Data about managerial policies and practices have been fundamental in bringing about a change in the terms of debate in areas traditionally dominated by the prescriptive tradition. WERS has helped to bring about a significant shift towards evidence-based evaluation of policy and practice, with the CIPD itself becoming a major funder of empirical research.

If employment relations' strong emphasis on empirical inquiry has been maintained, there has been an increasing tendency in recent years to combine induction with deduction, where the researcher starts with a proposition or hypothesis derived from established facts or their theoretical assumptions. Indeed, almost invariably these days, such empirical work is theoretically informed. For example, many of the questions that have been added to the WERS down through the years represent a form of theory testing - case study research in the intervening years has raised questions and suggested hypotheses that such a large scale representative survey can answer and/or test.

A combination of different theoretical starting points involving different forms of 'counter-factual' method is also increasingly to be found. These can be 'deductive', where outcomes are compared to what might have been expected if the parties had pursued their 'rational' interests, or 'inductive', where actual outcomes are compared to empirically-based accounts of actors' interests and preferences. Importance of history/importance of comparative method/contextualised

A combination approach that has been particularly influential with Dutch and German employment relations scholars<sup>25</sup> is the 'actor-centred' institutionalism associated with Scharpf<sup>26</sup> and his colleagues. In this, actors and their preferences and perceptions are treated as 'a theoretically distinct category - influenced, but not determined by the institutional framework within which interactions occur ...' Actors' preferences are also seen as having at least two dimensions, 'individual and organisational self-interest on the one hand, and (internalised) normative obligations and aspirations on the other .... For that reason, they will vary greatly between different types of actors - political parties, government ministries, unions, central banks, etc. - and in time and place. By contrast, the 'maintenance' or survival interests in assuring organisational resources, defending organisational

autonomy, and achieving competitive success, are likely to be more uniform and constant, allowing for fairly general and reliable predictions of organisational responses to institutional incentives<sup>27</sup>.

Turning specifically to research methods, no one seriously disputes that both quantitative and qualitative methods have their place. The progression of WERS has reinforced the value of the survey method and the associated quantitative methods. Equally, there is a recognition that an 'exclusive concern with the quantitative is as one-eyed as that which draws only on the qualitative'<sup>28</sup>. Understanding the complex, unpredictable processes involved in employment relations developments needs in-depth qualitative methods like the case study.

Here, as well as the growth of multi-method studies combining quantitative and qualitative techniques, there is evidence of the increasing use of multiple case study designs that capture variation whilst continuing to seek depth of understanding. Similarly, there are research programmes in which studies seek to build from and on the findings of previous ones<sup>29</sup>.

Perhaps most significant has been the increase in cross-national comparative activity, largely reflecting EU developments. This has ranged from national level comparisons through to detailed analysis of specific issues such as the impact of financial institutions and foreign ownership, and the implications of European integration. Much of it has also extended beyond the standard country-by-country comparisons to embrace integrated treatment of key themes and issues. It has also involved multi-level analysis, with 'firm in sector' research designs and the breaking down of the barrier between EU-level and national systems developments. Such work has provided a powerful intellectual stimulus, helping us to re-think the subject matter of employment relations and approaches to it. Paraphrasing Hyman again, it has forced us to look again at many taken-for-granted assumptions and causal explanations that apparently fit one country; it has encouraged an appreciation of the need for more theorising; and it has exposed us to different theoretical traditions<sup>30</sup>.

## **On-going challenges**

It would be wrong to think that the mood of employment relations scholars is one of complacency. Certainly there are many challenges. At the top of many lists is likely to be that of unraveling the links between practice and performance. This is particularly true of the links between working practices and business performance. There can be little doubt that success here would help to confirm employment relations' importance in the eyes of policy makers and practitioners. It would also pave the way to assessing the consequences for other key outcomes such as personal development. Yet enough is known to appreciate the immensity of the task – indeed, it could be as frustrating as the search for the 'holy grail'. For, arguably, it is not just a matter of 'big science' comprising large-scale surveys and the collection of detailed data using sophisticated instruments<sup>31</sup>; there is also need for contextualised inquiry reflecting the complexity and variability of the relationships between practice and performance<sup>32</sup>.

Developing a truly 'multi-level' perspective is another major challenge. Much employment relations analysis prioritises *either* the national level *or* the workplace level. In the first instance, there is what might be described as a 'top-down' view of arrangements. In the second, the concern is with the labour process and its implications. These approaches need to come together, with attention focused on the interaction between the levels and the forces driving the relationship between them. Arguably, Morgan's comments on the national business systems literature apply equally to its employment relations counterpart: there is a need to take into account 'the layered nature of social space, the simultaneity of the context and the consequences of action and institutions at the local, regional national and international levels'<sup>33</sup>. Certainly the more internationally comparative work in the area becomes, the greater the need for sensitivity to the articulation between 'top down' and 'bottom up' developments.

A third challenge is to develop a 'progressive' research agenda, i.e. one that 'builds on what has gone before to improve conceptualisation of the phenomenon in question and to advance explanation of its causes and consequences'<sup>34</sup>. It is not just that employment relations has tended to be ad hoc in its choice of issues for attention, very often reflecting immediate policy maker and

practitioner concerns. Arguably, it has too often in the past developed analysis that has wider significance, only to allow it to lie fallow and see a very similar approach or idea emerging much later in another field. Take the issue of change. Even if the language is not used, issues of 'entrepreneurship', 'bricolage', 'translation' and 'enactment' figure prominently throughout British studies of workplace employment relations, going as far back as Flanders' classic 1964 study of the Fawley productivity agreements.

A final challenge takes us back to the Preface. Those of us who teach and research in the area have to do much more to explain to the outside world why the subject has on-going relevance to policy makers and practitioners. This does not mean pretending to have quick fix solutions. Rather it means teasing out the policy and practical implications of analysis and research; focusing on outcomes as well as processes - not just in terms of business performance, but also wider concerns such as the contribution of work organisations to social capital development; and making things more accessible. All these are important not just because, in the climate of limited resources, the appeal of teaching programmes and the success of research applications depend on relevance. Much more fundamentally, they take us back to the origins of the subject. Because none of the traditional disciplines is centrally concerned with the employment relationship, there is a great danger that the unfolding developments and their considerable implications will only be appreciated when it is too late to do anything about them.

### **The rest of the text**

The chapter that follows is concerned with why employment relations matter. It not only covers the impact of employment relations in areas that have traditionally featured, namely conflict and business performance, but also living standards, health, and personal development opportunities. It also deals with the wider impact of the conduct of the employment relationship on the family, social capital and macroeconomic performance.

The remaining chapters focus on the matters that the study of employment relations deals with. In each case, they seek to explain why the issue is seen as worthy of study, account for why things are as

they are, and tease out the underlying trends and developments. They also highlight the main controversies and debates.

Chapter 3 is concerned with the employment relationship, highlighting its distinctive features and the main variations that it takes. It goes on to consider whether intensifying competition is bringing about fundamental changes in the traditional model. Chapter 4 is concerned with institutions, explaining why they are the focus of so much attention, identifying the ones that are especially significant and accounting for the main cross-national differences. It also reviews the forces driving change, the mechanisms involved and direction of travel.

Chapters 5 and 6 focus on the two key underlying issues that are all too often neglected. Chapter 5 emphasises that ‘negotiation’ is as much a feature of individual employment relations as it is of collective ones. It is also not just about ‘exchange’. It is also about influencing relationships, changing attitudes and shaping preferences. Chapter 6 is concerned with the nature, distribution and exercise of power that is involved in the employment relationship. It explores the different types and ‘faces’ of power and their relevance, explains why the nature of power in the employment relationship is so asymmetrical (unequal) and discusses attempts handle the tension between ‘power to’ and ‘power over’.

Chapter 7 explains why conflict is an integral feature of the employment relationship. It reviews the main expressions that conflict at work takes and considers the changing patterns of these and the reasons for them.

Chapters 8, 9 and 10 go on to consider three main areas of debate relevant to the practice and theory of employment relations. Chapter 8 focuses on the nature, extent and direction of change in management's approach, linking them to the particular ‘varieties of capitalism’. Chapter 9 deals with trade unions and collective bargaining and considers whether the decline in membership and coverage represents the passing of an era. Chapter 10 is devoted to the role of government and the ongoing public policy issues that policy makers find themselves having to confront.

The Appendix compares and contrasts the impact of employment relations in the UK and a selection of other countries (Germany, France, the Netherlands, Sweden and the USA), largely drawing on social and economic indicator data from the main international

*Introduction: studying employment relations*

agencies. It also discusses the missed opportunities for plugging some of the UK's institutional 'gaps' that this comparison reveals.

**Table 1.1**      **Theorising's three perspectives**<sup>35</sup>

*Positivism*

This holds that the role of theory is to simplify our understanding of social phenomena. It seeks to go beyond explanation to identify timeless laws along the lines of the natural sciences. The analytical approach is essentially deductive, with hypotheses being derived from theoretical assumptions grounded in 'methodological individualism', rationality and self-interest. Methods typically involve modelling with mathematics and econometrics playing an increasingly important role. The approach especially values parsimony in its theoretical assumptions and predictive capacity in its explanations. It is criticised for working with unrealistic assumptions, giving limited attention to preference formation, ignoring context in understanding individual motivation and addressing empirical regularities rather than the underlying causal mechanisms.

*Social constructionism*

This holds that the role of theory is to inform and sensitise analysis to the complexity of social phenomena. It focuses on explanation and equates it with identifying the beliefs and desires that lead people to act in particular ways. A core assumption is that there can be no objective social or political reality independent of our understanding of it. The method is essentially comparative and historical with a focus on the social processes through which people create meaning. It especially values complexity and realism in making assumptions. It is criticised for working with untestable assumptions, stressing generic processes over causal explanation, ignoring the influences of structures that lie outside the processes and failing to ask why construction takes a *particular* form under given conditions.

*Critical realism*

This holds that the role of theory is to understand the empirical regularities of social phenomena and to determine when they occur/do not occur. It focuses on explanation and equates it with identifying the causal mechanisms behind these regularities. Although the social world is seen as being different from the natural in that it involves human intervention, institutions nonetheless develop with logics

*Introduction: studying employment relations*

independent of the choices of individual actors. The method is essentially comparative and historical involving a mix of deduction and induction. It especially values complexity and realism in making assumptions; it also stresses the importance of context in shaping individual preferences. It is criticised for its lack of predictive capability, a tendency to description for its own sake, proneness to structuralism and difficulty in adequately accounting for change.

## References

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- <sup>2</sup> In the USA, the 'golden age' is usually associated with the 1940s and 1950s. See Kaufman, B. 1993. *The Origins and Evolution of the Field of Industrial Relations*. Ithaca, New York: ILR Press. In the UK, it would be a decade later. See Winchester, D. 1991. 'The rise and fall of the golden ages: the British experience of industrial relations research and teaching', in Lansbury, R. (ed) *Industrial relations teaching and research: international trends*. Sydney: Australian Centre for industrial relations research and teaching.
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## 2

### **Why employment relations matter**

#### **Main tasks**

- **Establish the areas where employment relations has a major impact**
- **Identify the links and mechanisms involved**

#### **Summary**

A measure of the significance of employment relations is the number of people that are directly involved. For example, in the UK, at the end of 2009, just under 29 million or something approaching six out of ten of the population above the age of 16 were regarded as being in 'employment' according to the Office for National Statistics. Of these, just under 25 million people or 86 per cent were classified as 'employees' and nearly 3.9 million as 'self employed'. The absolute and relative levels of pay of these employees are major determinants of poverty and inequality and, along with the duration, distribution and flexibility of working time, have substantial implications for work-life-family balance. The type of work organisation in which they are involved has profound implications for both health and personal development opportunities. This is especially so in the case of the extent to which it enables control over demand and encourages autonomy and decision making. Similarly, the extent to which work organisation encourages information/ knowledge sharing and cooperation/team working influences business performance and productivity. The same goes for personnel policies and practices - especially important here are those dealing with participation and involvement. Furthermore, the greater the integration of personnel policies and practices with business strategy, the greater is their

influence. How managers are recruited, developed and, above all, rewarded is fundamentally important not just for the way they manage ‘other’ employees, but also for the balance between short-term profitability and investment and so the organisation’s strategic direction. Employment relations matter for macro considerations as well. The workplace is a major source of social capital - the level of employment security and the nature and extent of employee ‘voice’ influence levels of trust and so make for a cohesive society with the capacity to innovate and change. The results are reflected in macroeconomic performance indicators such as the level of GDP and competitiveness. The workplace also plays a fundamentally important role in producing consumers who generate demand and so profitability and growth.

## **Introduction**

For much of the 20<sup>th</sup> century employment relations were more or less equated with trade unions, collective bargaining and strikes. Asking why employment relations mattered was rather pointless. Trade unions were major political players and strikes a key concern of governments, providing the rationale for intervention not just in the area of dispute resolution procedures, but also minimum standards and support for collective bargaining. Strikes were also very newsworthy. Fueling the employment relations-trade union-strikes equation in the UK, for example, was a cadre of specialist labour editors who enjoyed a status matched only by the political ‘lobby’ correspondents. Perhaps not surprisingly, a reduction in the number of strikes, along with decline in trade union membership and collective bargaining coverage, has led to the view that employment relations no longer matter.

This chapter does its best to counter this view by bringing together evidence establishing the links between employment relations and a range of social and economic outcomes, together with the mechanisms involved. It focuses on the main levels of activity – from individuals through the family and workplace to the macro level – drawing on a wide range of international as well as UK sources. Table 1.1 summarises the results. The Appendix at the end of the text compares and contrasts the impact of employment relations in the UK and a

selection of other countries (Germany, France, the Netherlands, Sweden and the USA), largely drawing on social and economic indicator data from the main international agencies.

### **Living standards**

There are several possible measures of living standards, including gross domestic product (GDP) that features later in the Chapter and the Appendix; some embrace both material and non-material considerations such as longevity. The focus here is on what, arguably, is the most meaningful material measure so far as individuals are concerned, namely income from employment: for most of us such income is the only source there is. Two dimensions have to be considered. The first is the absolute level. If income from employment is absolutely low, the result is likely to be poverty, with implications not just for individuals and their families but also national social security systems: unlike physical capital, human capital is not something that employers 'own' and so there is little incentive for them to meet the so-called 'social costs of labour' (i.e. the 'minimum on-going expenditure for upkeep, repair and depreciation if the input is to be maintained'<sup>1</sup>). Not surprisingly, the avoidance of poverty figures prominently in the justification for minimum wages legislation now present in around 90 per cent of countries<sup>2</sup>.

The second dimension is the relative level of income, which brings in the issue of inequality. Even people who are absolutely well paid may nonetheless experience a sense of deprivation if they find that others are earning more for what they think is no good reason; the same is true if they think the size of the difference is unjustified. This is because fairness plays a key role in shaping expectations and fairness depends on comparisons<sup>3</sup>.

Arguably, for example, it is so-called 'relative deprivation' that helps to explain the rapid growth of banker and executive pay in recent years. The stimulus has been the earnings of former colleagues and acquaintances working for hedge funds and private equity groups who, because of their partnership-type organisation, have been able to reward themselves especially handsomely.

Poverty and inequality are analytically distinct, but closely related in practice. As well as significantly affecting life expectancy via the 'social gradient' discussed in the next section, both national and

international evidence confirms that poverty also results in lower social mobility – the lower the social mobility, the greater the prospect of areas of high deprivation growing up from which it is difficult to escape. In the words of the TUC's Commission on Vulnerable Employment, 'persistent poverty isolates and excludes'<sup>4</sup>. This is because, as the UN *Human Development Report* emphasises on the basis of extensive international evidence, 'The main form of ... mental illness, anxiety disorders, the main forms of inequality - income, gender, and regional - seldom exist in isolation. Rather they create 'mutually reinforcing structures of disadvantage that follow people through life cycles and are transmitted across generations'<sup>5</sup>. The UN's central message is that distribution should be put 'at the centre of strategies for human development':

People are likely to be restricted in what they can do with their freedom and their rights if they are poor, ill, denied an education or lack the capacity to influence what happens to them. To be meaningful, formal equalities have to be backed by what Amartya Sen has called the 'substantive freedoms'<sup>6</sup> - the capabilities - to choose a way of life and do the things that one values. Deep inequalities in life chances limit these substantive freedoms, rendering hollow the idea of equality before the law<sup>7</sup>.

As the UN's *Human Development Report* emphasises, inequality matters not just because of the implications for individual well-being, however, but also society at large. To paraphrase:

- *Inequality fuels people's sense of social injustice.* Trust, which is a critical ingredient in the social capital that business is able to call on, suffers, resulting in the corroding of institutions and weakening of political legitimacy.
- *Inequality is inefficient.* Society as a whole suffers where inequalities based on wealth, gender or region leave a large section of the population with insufficient assets and endowments to make a full contribution.
- *Inequality impedes growth.* This effect is especially strong for asset inequality. Limited access to productive assets and/or limited capacity to enforce legal claims can restrict poor people's ability to borrow and invest, holding back growth. By contrast, greater

distributional equity can accelerate growth with no inherent trade-offs between growth and equity<sup>8</sup>.

There are especially strong links between inequality and mental health, above all in the form of anxiety disorders reflecting concerns about both the financial and status implications of 'relative deprivation'. Here the work of the WHO's 'World Mental Health Survey Consortium' covering with Belgium, France, Germany, Italy, Japan, the Netherlands, New Zealand, Spain and the USA is especially relevant. Wilkinson and Pickett have brought these results together with those of national studies in Australia, Canada and the UK to show that the more unequal a country's income distribution, the greater the tendency to mental illness<sup>9</sup>.

In the UK, there has been a significant growth in the proportion of low paid workers. In 1977, 12 per cent of workers earned less than two-thirds of the median. By 1998, this had risen to 21 per cent. By April 2006, it was more than one-fifth (23 per cent)<sup>10</sup>.

Nearly two-thirds (60 per cent) of low-paid workers were women, and over two-fifths of low-paid workers in total are women working part time. Disabled people were also at greater risk of being in low-paid work, being 10 per cent more likely than the able bodied to be in low-paid jobs. Ethnicity and age were also important: Bangladeshi, Pakistani and black African were the ethnic groups most likely to be low paid, as were young people<sup>11</sup>.

There has also been a considerable increase in 'in-work poverty', i.e. being in low-paid work and living in a household on a low income. In the words of the 'almost six in ten households in which adults are living in poverty (57 per cent) are households where one or more adults are in paid employment, up from under a half ten years ago'<sup>12</sup>.

At the other end of the scale, nearly five million people in the UK earned over £35,000 a year in 2004-5; 4.2 million earned between £35,000 and £100,000; 422,000 between £100,000 and £350,000; and 47,000 earned more than £350,000. The details will be found in Table 1.1.

A widely used single figure measure of income inequality is the 'Gini' coefficient, which condenses the entire income distribution into a single number between zero and one: the higher the number, the greater the degree of income inequality. On the basis of this, inequality in the UK rose dramatically over the 1980s, the coefficient rising from

a value of around 0.25 in 1979 and reaching a peak in the early 1990s of around 0.34<sup>13</sup>

A particular feature of this inequality is the gender pay gap. In the opening words of the Women in Work Commission's (2006) Executive Summary,

In the 30 years since the Equal Pay Act, there have been many advances in women's position in society and at work. More women are in employment and occupy a greater number of senior positions. Girls are outperforming boys at school and their aspirations are high. Despite these important changes, the pay and opportunity gap for women remains. Women who work full time earn 13 per cent less than men who work full time, based on median hourly earnings, and 17 per cent less based on mean hourly earnings<sup>14</sup>. These lower earnings leave women at greater risk of falling below the poverty line and of being worse off than men in retirement. Women face an unfair disadvantage and the UK economy is losing productivity and output.

Many factors contribute to a country's pay structure. One is employment structure. Take the UK. Although some object to the description of the UK as an 'hour glass economy'<sup>15</sup>, employment structure is nonetheless skewed towards services, which have large numbers of both high- and low-paying employees – finance is an example of the former and hotels and restaurants the latter. In the words of a European restructuring monitor report using the median hourly wage as a proxy for job quality, the UK is a hybrid case of 'polarisation' and 'upgrading' – in recent years it has experienced moderate but clear job growth in the second lowest earnings quintile, little growth or net job destruction in the lowest and middle quintiles and strong growth in the top two quintiles<sup>16</sup>. The report goes to suggest that this pattern is related to the destruction of manufacturing jobs (especially in low-technology industries) and the creation of middle-paying to low-paid jobs in personal and social services (many of which have been filled by women working part-time).

A second factor affecting pay structure is productivity. Important here is the business strategy that a company pursues. If a country has a concentration of businesses in sectors with low R&D, as is the case for the UK, pay levels are likely to be low. The same is true if

companies compete on the basis of costs rather than quality and 'numerical' rather than 'functional' flexibility: the result is low levels of skill, of productivity and, most immediately relevant, of pay<sup>17</sup>.

Underpinning these features of business strategy are two institutional considerations, the significance of which will be discussed in more detail in later sections and chapters. One is the extent to which *corporate governance* arrangements encourage a focus on short-term profitability as opposed to long-term market share or added value – the former makes it difficult to prioritise quality and build the relationships necessary for its achievement. The other is the *structure of collective bargaining*. Critical here is the level at which collective bargaining takes place and so the coverage. Collective bargaining that is multi-employer and sector wide has two advantages over its single employer equivalent when it comes to low pay: trade unions are better able to confront the monopsony power of employers, especially where there are legal provisions for extending terms and conditions across a sector; and there is a greater pressure on all firms in the sector to adopt more efficient working arrangements to offset the increases in their employment costs.

### **Health**

In the words of a recent authoritative review of the health of Britain's working population, 'There is ... compelling evidence that work has an inherently beneficial impact on an individual's state of health ... Overall, the beneficial effects of work were shown to outweigh the risks and to be much greater than the harmful effects of long term worklessness or prolonged sickness absence'<sup>18</sup>. Even so, the 'risks' are not insubstantial. Employees are not only vulnerable to injuries and illnesses that take place in the workplace and/or are directly caused by employment ('occupational health'). Many illnesses and mortality are influenced by conditions in the workplace, but may occur later in life beyond the work environment ('occupationally-related health').

#### *Occupational health*

Historically, the emphasis has been on injuries arising from accidents, musculoskeletal disorders reflecting the organisation of work and/or inadequate equipment, and illnesses, such as cancer, dermatitis and

asthma, associated with the use of chemicals and other harmful substances. In recent years, there has been growing concern with the emotional work environment and the links with stress and mental health. The very graphic words of the director of the Work Foundation sum up a widely argued position:

The cause [of stress and mental health] is modernity in all its guises - family and community breakdown, the ever harder quest to find meaning in life, the cheapness of mind-wrenching drugs, the discontinuity between reality as portrayed by the media and real life and so on. But one cause gets too little exposure - the role of work. The ills of modernity have been around for decades; the construction of the contemporary 'flexible' labour market began 20 years ago and it has been hardening ever since ... No story of the rise in mental ill-health is complete without recognition of the increasingly grad-grind character of many British workplaces ...<sup>19</sup>

Different commentators emphasise different features of the 'flexible' labour market. As Chapter 1 observed, these include greater pressure on performance involving the adoption of stretching targets, along with rigorous appraisal of performance and greater surveillance; greater insecurity arising from the 'permanent restructuring', 'competitive tendering', 'market testing' and the subcontracting or outsourcing of activities previously undertaken in-house; and questioning of some of the long-standing benefits of the employment relationship that many employers no longer feel they can afford, such as careers and final salary pensions. More fundamentally, it is argued, people's sense of certainty about their place in the world is being undermined, threatening their individual resilience<sup>20</sup>.

Perhaps not surprisingly, the recession appears to be reinforcing these tendencies. In the UK, a CIPD survey suggests that job satisfaction had dipped considerably in recent years across all sectors and organisation sizes<sup>21</sup>. Its *Annual absence management survey*, 2009 also suggests that some of the reduction in levels of absenteeism might be attributed to people worrying that going off sick might make them a target for redundancy – something that information on calls to the Acas Helpline corroborate<sup>22</sup>.

As the Appendix will confirm, the UK has a relatively good record for safety at work. Even so, the impact of employment is

## EMPLOYMENT RELATIONS MATTERS

considerable, as these Health and Safety Executive statistics for 2007/08 confirm: 229 workers were killed at work, a rate of 0.8 per 100 000 workers; 136 771 other injuries to employees were directly reported, a rate of 517.9 per 100 000 employees; and 299 000 reportable injuries occurred, according to the Labour Force Survey, a rate of 1000 per 100 000 workers. It also emerges that 2.1 million people during the year were suffering from an illness they believed was caused or made worse by their current or past work, of which 563 000 were new cases. 2056 people died of mesothelioma (2006), and thousands more from other occupational cancers and lung diseases. Overall, 34 million days (1.4 days per worker), were lost 28 million due to work-related ill health and 6 million due to workplace injury.

### *Occupationally-related health*

Stress figures especially prominently in discussions of 'occupationally-related health'. The basic proposition is that working in hierarchical organisations leads to stress, which in turn can lead in later life to the heart disease, stroke and diabetes that together represent 50-75 percent of all mortality. This is because of the instinctive biological mechanisms involved. Stress increases the levels of the hormone cortisol; the higher the levels of cortisol, the greater risk of 'metabolic syndrome', which can have a direct impact on the risk of a person developing such diseases. Stress also affects the sympathetic nervous system that is responsible for the adrenaline rush caused in situations where the individual is faced with the option between a 'fight' or 'flight' response. This effect, which causes inflammation, is also related to metabolic syndrome.

The main strand of the argument focuses on the impact of the 'social gradient', i.e. where the individual stands in the hierarchy. Much of the work stems from the development by Karasek of what has come to be known as the 'demand-control model'. Basically, Karasek defines stress on the job according to the demands of the task (how fast-paced and chaotic the workplace is) and the amount of control a worker has in deciding how to meet them. This produces four categories:

- low-demand, low-control
- low-demand, high-control
- high demand, high control
- high demand, little control<sup>23</sup>

A popular perception is that stress is associated with those in especially 'high demand' jobs such as senior managers. Yet employees in these jobs may not experience stress, if demand is predictable and, above all, within their control. This is especially so if their status brings more support and more outlets. By contrast, it is the workers in Karasek's fourth category, most of whom are relatively low status, who are held to be at most risk. This because, 'The more extensive the hierarchy, the lower the control and autonomy that employees can exercise vis-à-vis management'<sup>24</sup>.

The second strand, which has its origins in the work of 19<sup>th</sup> century thinkers such as Durkheim and Simmel, focuses on the availability of support to individuals and makes links with issues of social capital discussed later. The argument is that, controlling for the influence of economic growth, the availability of 'social support' helps to diminish the harshness of the effects of lack of autonomy and control in leading to stress or illness. In practice, the focus has been on the most fundamental difference observable at cross-national level, namely that between those employed in complex organisations with social hierarchies and those involved in self-employed and family-owned businesses<sup>25</sup>.

Pretty robust data are available for both strands of the argument. Thus, Karasek's original findings having been replicated over the last 20 years in many countries. Perhaps the best known work in the UK is associated with Marmot, who is Professor of Epidemiology and Public Health at University College. His so-called 'Whitehall studies' track the health of British civil servants from 1967 onwards. In 'Whitehall 1', the focus was on men and examined mortality rates over 10 years among 18,000 civil servants across the range of job grades; in 'Whitehall 11', which involved just over 10,000 civil servants, women were covered as well as men.

## EMPLOYMENT RELATIONS MATTERS

Whitehall 1 established that there was a 'social gradient' in mortality that ran from bottom to top of the organisation. In the words of the WHO's summary:

Men in the lowest grade (others = messengers, doorkeepers, etc.) had a three-fold higher mortality rate than men in the highest grade (administrators) ... Grade is also associated with other specific causes of death, whether or not the causes were related to smoking ... While low status was associated with obesity, smoking, less leisure time physical activity, more baseline illness, higher blood pressure, and shorter height (78), controlling for all of these risk factors accounted for no more than 40 per cent of the grade difference in CHD mortality ... After controlling for standard risk factors, the lowest grade still had a relative risk of 2.1 for CHD mortality compared to the highest grade ...<sup>26</sup>

As for 'Whitehall 11', the joint Civil Service Unions/Cabinet Office publication came to the following conclusion:

Whitehall II showed that the association between low control and increased risk of heart disease was independent of a range of personal characteristics of individuals. The implication was that the relationship related to the way work was organised and the opportunity it gives people for control rather than to any characteristics of the individuals in those jobs ... Low control at work makes an important contribution to the social gradient in mental and physical ill health<sup>27</sup>.

In the case of support to individuals, there is a large epidemiological literature confirming that the more frequent and intense one's social relationships, the more protective an effect there is on illness and mortality, regardless of the type of disease and disability. Brenner's work for the European Commission, which draws on both time-series and cross-sectional analysis for OECD as well as EU countries also confirms this. Controlling for GDP per capita in purchasing power parity, it finds that 'the extent to which a nation's formal workforce consists of employees operating outside of standard wage and salary employment (i.e., outside of hierarchical work organisations) is associated with lower age-adjusted mortality (including cardiovascular and accident related mortality)<sup>28</sup>. Brenner suggests on the same page that the 'data are also consistent in

demonstrating that the extent to which a nation's formal workforce consists of self-employed, and/or are family workers, is inversely related to age-adjusted mortality rates'.

## **Personal development**

The development of human capital does not just involve schools or institutions of higher education: in the words of the OECD, 'Learning and the acquisition of skills and knowledge takes place from birth to death'<sup>29</sup>. If the family is of overriding importance in our early years, it is employment that is important for most of our lives. In a phrase, and for better or worse, the firm is a 'learning organisation'. Moreover, the learning involved is not just a matter of technical skills, but also social ones such as perseverance and self-discipline, communications, and the capacity to make judgments, along with critical inter-personal skills such as the ability to work in teams and exercise leadership. Again, there are profound implications for individuals, organisations and society.

### *Continuing vocational training*

There are three main ways in which employment is held to contribute to personal development. The first, continuing vocational training (CVT), may be specific or general and may or may not involve public recognised credentials and diplomas. It may take place on or off the premises, but is invariably structured. Individuals and/or the state may bear some of the costs. In the main, however, it is employers who bear the main burden, which can be seen as an explicit form of investment in human capital.

An overview of the literature on the impact of CVT suggests that individual workers receiving on-the-job training have 'consistently been found to earn higher wages'<sup>30</sup>. One UK study referred to found that individuals undertaking CVT were found to earn on average 5 percent more than individuals who had not<sup>31</sup>.

As for the incidence of CVT, there are three main sources. One is *Eurobarometer*. Here a review drawing on data for 1996 and 2001 finds that dominant trend was towards upskilling in the 1990s, but no evidence that the pace of change increased in the second half of the period<sup>32</sup>. Even so, over half of employees in both years (59.0 per cent

and 54.9 per cent) said they had received no training. A further 14.7 per cent and 17.1 per cent said the training was less than one week.

A second source is the International Adult Literacy Survey (IALS) covering OECD countries.<sup>33</sup> On average, one in four (26 per cent) of employees participated in employer-sponsored CVT each year with an annual training intensity, on average, of about 68 hours, i.e. slightly less than nine working days<sup>34</sup>.

As in the case of health, there are winners and losers. Overall, the authors suggest, CVT may have the perverse effect of increasing inequalities between different groups. Thus, although participation rates are roughly the same for men and women, intensity differs, with women receiving on average 17 per cent fewer hours training than men. The incidence and intensity of training also tended to decline with age and differ considerably across educational and occupational groups. Participation in low-skilled occupations (13 per cent) was about one third of participation in high-skilled occupations (38 per cent). Similarly, it was 16 per cent for workers with less than upper secondary education against 35 per cent for those having a tertiary degree. Hence, the three components of human capital (early human capital, formal education, and on-the-job training) tended to be complementary over the life-cycle of workers. Employees with a high degree of supervisory responsibility were also twice as likely to benefit from CVT as are employees without. Intensity was greater as well: on average, employees performing non-supervisory functions spend less than one-third as much time on training as employees with a great supervisory role.

The third, and most up-to-date, source is Eurostat's Continuing Vocational Training Survey (CVTS2)<sup>35</sup>. As well as cross national comparisons, which are considered later, key findings indicate that:

- large companies invest considerably more of their employees' working time in continuing vocational training (CVT) than small- and medium-sized companies do; candidate countries have the highest intensity of CVT in small enterprises
- the amount of working time devoted to CVT in the services sectors, particularly in financial intermediation, is above average
- there is a correlation between participation in continuing vocational training and the use of 'new technologies'. In most countries, the

participation rates and the hours spent in CVT are higher in companies with new technologies.

*Opportunities for on-the-job development*

Arguably, CVT is just the tip of the iceberg of the development opportunities that employment offers. Also important are the opportunities that come with day-to-day working on the job. Here two features of work organisation are critical. One is the degree of task complexity: the higher the degree of task complexity, the greater the requirement for the exercise of problem-solving skills and continuous learning. The other is the nature and extent of autonomy – the extent to which employees are allowed to make decisions. A high degree of task complexity can go hand-in-hand with considerable scope for employees to exercise their initiative. Or it can be accompanied by relatively little discretion, where there is a more formal structure of protocols (e.g. team work and job rotation practices) and/or tight quantitative targets. For example, two main types of team working have been identified that reflect these different combinations: the 'Scandinavian' or 'Volvo', where team members have considerable autonomy in deciding how their jobs are done; and the 'Toyota', where managers have much greater control over the processes<sup>36</sup>.

Capturing data on the nature, extent and impact of on-the-job learning is a much more difficult exercise than that for CVT. Eurobarometer data for 1996 and 2001 suggest that only 23.3 per cent (1996) and 18.3 per cent (2001) said it was very true that they had a lot of say over what happens on the job. Only 26.0 per cent and 23.2 per cent said this was the case for their ability to take part in decisions affecting their work<sup>37</sup>.

The European Foundation for the Improvement of Living and Working Conditions undertakes a regular representative 'European survey on Working Conditions' across EU countries. Especially interesting is the analysis done on the results of the third and fourth surveys carried out in 2000 and 2005. Briefly, it uses a form of factor analysis that takes into account variables such as the use of team work, job rotation, repetitiveness of tasks, the complexity of tasks, and the learning dynamics in work (whether the individual learns new things in work and whether the work requires problem-solving

activity). On the basis of these, it develops four models of work organisation covering EU countries. Table 1.2 gives an overview of the results across the 15 countries for which data were available in the 2005 survey.

### *Opportunities for upward mobility*

For many employees, the most extensive opportunities for development come not from the present job, but the challenges arising from promotion. It is also through these opportunities that employees are most likely to achieve the benefits that come from social mobility. In practice, the debate has centred on the role that employment relations play in reducing people's scope for advancement and making the contribution they might be capable of. The most obvious groups affected are those who have come to be covered by equality legislation dealing with discrimination on grounds of age, disability, gender, race, religion or belief, and sexual orientation.

The attention here focuses on women, who are not only the largest group, but the one for whom the data are most extensive. In the UK, there have been two major reports in recent years that bear on these issues: the Kingsmill committee's (2001)<sup>38</sup> and the Women and Work Commission's (2006)<sup>39</sup>. Internationally, the EU, ILO and OECD have been active in developing their own cross-national data bases. Broadly speaking, the data identify a common problem that is similar in its main proportions across countries. Relatively few women break through the 'glass ceiling', the lack of flexibility at senior levels being particularly acute. The gender gap appears to be largest for the highest-level category of managers – directors and chief executives – with 1.4 per cent of men holding such titles compared with only 0.4 per cent of women. Moreover, data from the EU's *Women and men in decision-making database* show that women are almost invisible in the top 50 publicly quoted companies. On average, only 3 per cent of presidents and just 10 per cent of board members of these key companies were women.

To paraphrase the ILO<sup>40</sup>, in spite of the slow but steady increase being seen in the share of professional women in the workplace, the nature of women's career paths continues to block them from making progress in organisational hierarchies. Even in female-dominated sectors, a disproportionate number of men rise to the more senior

positions. The rule of thumb is still: the higher up an organisation's hierarchy, the fewer the women. On recruitment, qualified women tend to be placed in jobs that have a lower value in terms of skill requirements and remuneration. They find themselves in what are considered 'non-strategic' jobs, rather than in line and management jobs leading to higher positions. Thus, they effectively become support staff for their more strategically positioned male colleagues.

Women also find it difficult to combine work and family life, facing substantial penalties, in terms of pay and progression, for taking time out of the labour market or reducing their working hours to care for children or other relatives. Women who work part time earn 32 per cent less than the median hourly earnings of women who work full time and 41 per cent less per hour than men who work full time. Women returning to the labour market after time spent looking after children often find it difficult to find a job that matches their skills. Those looking for part-time work crowd into a narrow range of lower-paying occupations due to a lack of quality part-time jobs. Often they have to change employer and occupation – and accept lower pay – to get part-time work.

There is also a measure of consensus about the three main sources of institutions stopping women from climbing career ladders, many of which are common to other disadvantaged groups. One is the workplace, where formal/informal policies and practices dealing with issues such as recruitment, access to training and the operation of payment systems pose barriers. The second is the occupation. Many discriminatory barriers are the 'property' of the occupation in as much as there are limits on access that may penalise particular groups<sup>41</sup>. The third is the wider society, where social norms and traditions regarding education, labour market participation, job choice, career patterns and the evaluation of male- and female-dominated occupations may be influential.

These factors come together to produce a situation where jobs come to be seen as 'male' or 'female', with both sexes being streamed (or streaming themselves) into different occupations and therefore sectors. As the ILO reminds us in discussing the 'glass ceiling' that confronts many women, this segregation can be 'horizontal' or 'vertical'<sup>42</sup>. In the first instance, sectors come to be seen as male or female. Traditionally, engineering, physics, the judiciary, law and

## EMPLOYMENT RELATIONS MATTERS

health service administration are considered 'male' jobs and library work, nursing and teaching (especially in primary education) are considered 'female' jobs. In the second, specific jobs within the sector come to be associated with one or other of the sexes. Thus, even in sectors where women predominate, such as teaching or personnel, men are more likely to hold the more senior and better-remunerated positions. Additionally, the wider institutional framework may help or hinder mobility. Features highlighted include age-related education and training systems, tax and benefit systems, parental leave arrangements and, perhaps most crucially, the provision of childcare facilities before and during compulsory school years.

In the case of the UK, the opening paragraph of the Executive Summary of the Women in Work Commission's *Shaping a Fairer Future* published in February 2006 gives an impression of what is at stake:

The Commission estimates that removing barriers to women working in occupations traditionally done by men, and increasing women's participation in the labour market, could be worth between £15 billion and £23 billion or 1.3 to 2.0 per cent of GDP. There are huge opportunities for change. Over the next decade, 1.3 million new jobs are likely to be created and 12 million jobs will change hands as workers leave the labour market ....

### **The family**

The family plays a key role in developing human and social capital. In the words of the Ministerial foreword to the Cabinet Office Strategy Unit's *Families in Britain: evidence paper*,

Families are the bedrock of our society. They nurture children, help to build strength, resilience and moral values in young people, and provide the love and encouragement that helps them lead fulfilling lives. Extended family members provide one another with support throughout life, especially in difficult times and during critical moments, such as when a child is born, when a couple is separating or when relatives need caring for. It is within families that a sense of identity develops, and cultural and social values are passed on from one generation to the next. We often

take for granted the fact that families are unparalleled in the sheer range of what they do and provide for us<sup>43</sup>.

In as much as it impacts on family life, the nature of employment influences the development of human and social capital indirectly as well as directly. Several links are emphasised. One already touched on is the absolute levels of pay. The argument is that relatively low levels of pay mean that many families have little choice: women have to go out to work to maintain a reasonable standard of living. Being dual income households (or, perhaps more appropriately, '1.5' in the light of the growth in part-time working) means they may achieve this objective, but the quality of family life may also suffer.

Another long-standing issue in the UK is the impact of the long working hours of fathers. These do not just affect individual health and well-being, it is argued, but also the quality of family life<sup>44</sup>. Boys and teenagers in particular strongly notice the absence of a father whose long working hours keep him from the family home. Family and community interaction are also linked: many employees simply lack the time or energy, after long hours at work, for even basic forms of community participation. More recently, the duration and flexibility of working time is seen as an issue affecting women as well as men with talk of a new 'temporality'<sup>45</sup>. In this, working patterns are increasingly employer-led, that is organised by firms to suit their own specific ways of working, seen as being crucial to competitiveness, rather than around traditional social rhythms. They suggest that the new patterns required workers to work harder and longer and in ways that minimise labour costs.

Much attention focuses on the impact on family life of the increasing feminisation of the workforce, reflecting the growth of the service sector. One strand is concerned with the impact working mothers have on their children's development in terms of their educational attainment or psychological adjustment. A second links to wider debates about the break up of the nuclear family and the implications for the care of elderly relatives in an increasingly ageing society.

Also being highlighted is the impact of increasing feminisation of the workforce on the birthrate. Career pressures, together with the cost and difficulty of combining work and family, are reckoned to be leading couples to delay having children or not have them at all.

‘Britons put work and fun before babies’ is the headline of one newspaper story drawing on an ICM survey story in *The Guardian*<sup>46</sup>. Similar features followed on Germany (‘Germany agonises over 30 per cent childless women’<sup>47</sup>) and Japan (‘Japan to tell its workers: take time off – for the sake of the nation’<sup>48</sup>).

As for changes in family life and their impact on children's life chances, the Rowntree Foundations 'Work and family life' programme found that parents thought that employment had a number of negative day-to-day effects:

- irritability and bad moods with the family, especially after a bad day;
- impatience with children and their slow pace after the fast pace of work;
- lower quality of relationships at home because of the stresses of work;
- time with spouse curtailed;
- insufficient energy to respond to children's requests;
- children not liking parents working at the weekend or when they are ill;
- parents' feelings of guilt;
- time with children squeezed due to long hours of work; and
- work encroaching into family life where parents worked at home<sup>49</sup>.

Other bad effects were considerably more pronounced for couples and lone parents who worked at atypical times of day, reducing their frequencies of family meals, outings and holidays, and helping children with reading and homework. Although it had expanded under the National Child Care Strategy and the Sure Start programme, child care provision was also seen to be a problem for working parents of school aged children, co-ordinating different child care provision being especially fraught.

### **Business performance**

#### *Managing the managed*

The notion that employment relations have a direct impact on business performance has a long history. The costs of conflict at work have always loomed large. Initially, as the introduction pointed out, the

main concern was with organised conflict and the costs of strikes or collective action short of strikes, such as an overtime ban or 'work to rule'. More recently, with the decline in trade union membership and collective bargaining, the focus of attention in the UK has shifted to individual disputes and, in particular, those involving an appeal to an Employment Tribunal (ET) under the various statutory provisions. As the Gibbons (2007) report on the operation of ETs establishes, both employers and employees find the tribunal process expensive and stressful<sup>50</sup>. The financial costs of a claim to businesses include time spent by staff handling the claim and the costs of specialist advice. It has been estimated that the Regulations cost firms nearly £290 million a year, including an average of £4,360 in legal fees and 7.71 days of which is directors' and senior managers' time. Tribunal claims are also costly for employees, an average of £2,493 being spent on legal fees alone. In this case, however, the non-financial problems are also important. The burden of preparation and anxiety over what is to come can adversely affect health and strain relationships both within and outside the workplace, and the experience can damage future career prospects. Survey data shows stress and depression were reported in 33 per cent of cases (rising to 43 per cent for discrimination cases). Last but by no means, there the costs to government incurred through funding the Tribunals Service and Acas - in 2005/06 the combined budget being £120 million.

Other expressions of conflict, such as absence and resignation, also show few signs of long-term decline. The WERS data suggest that, in workplaces with more than 10 employees, the incidence of these two indicators was relatively stable between 1990 and 2004: around three per cent of working days were lost through absenteeism in each of the years in which the survey had been undertaken, while voluntary resignations run at around 14 per cent<sup>51</sup>. Absenteeism, the Confederation of British Industry<sup>52</sup> suggests, cost around £13.2 billion in 2007.

Important though handling conflict has been, much more is involved in managing the employment relationship. Early examples reflect what Commons<sup>53</sup> called the 'good will' model and start from the idea that better treatment of employees leads to increased motivation and commitment and thereby improved productivity and/or reduction in costs. In the UK, pioneers included Robert Owen and his

## EMPLOYMENT RELATIONS MATTERS

Lanark factory system and the Quaker firms and their introduction of superior welfare arrangements at the turn of the nineteenth and twentieth centuries. In the USA, Henry Ford's willingness to pay higher wages than competitors is also an example. More generally, there was a recognition that employers had to make investments in specific forms of CVT if they were to maximise employee's performance.

In the 1960s, the emphasis shifted onto specific features of traditional ways of working, with major weaknesses being identified and alternative practices put forward to deal with them. For example, individual payment by results came to be seen as a major source of conflict as well as poor productivity, with measured day work systems promoted as a superior alternative<sup>54</sup>. Low basic rates of pay and extensive overtime working were similarly criticised for encouraging restrictive practices, with the recipe being annual hours arrangements that introduced disincentives to extending working time beyond basic shift hours<sup>55</sup>. Tayloristic forms of job design were associated with high levels of absenteeism, with job enrichment being promoted<sup>56</sup>. Perhaps most controversial was the recognition that the lack of opportunity for employees to make their contribution was putting employers at a serious competitive disadvantage. In this case, it took Japanese manufacturers to prove the point using techniques such as problem-solving groups and semi-autonomous team working to reduce costs and improve productivity and quality.

Since the 1980s, the emphasis of academics, practitioners and policy makers has moved on to bundles of practices, variously described as 'high performance work systems' (HPWS), 'high-commitment management' and 'high involvement management'. Put simply, the whole of these systems is seen as greater than the sum of the parts. Especially important is the extent to which practices are both mutually integrated and complementary to operating practices consistent with business strategy. A recent overview<sup>57</sup> usefully draws on one of the pioneering studies, across-national investigation of 62 car assembly plants<sup>58</sup>, to highlight two sets of linkages. The first is that task-related practices such as team-working and the use of problem-solving groups are likely to positively affect labour productivity when combined with supportive human resource practices, such as contingent pay, designed to enhance employee

motivation and commitment. The second is that these internally-consistent ‘bundles’ of HR practices raise productivity most when there is complementarity with operating arrangements. Workplaces pursuing a ‘flexible production’ approach with team-based work systems, supporting HR practices and low inventory and repair buffers ‘consistently outperformed mass production plants’.

Most of the evidence linking individual practices to performance comes from case studies and small group and national surveys. Each year, the Acas Annual Report also gives details of up-to-date cases dealing with changes in working practices such as multi-skilling or a reduction of overtime working or the handling of stress absence. Typically, the changes result in considerable improvements in the status quo, albeit little can be said about the durability of changes because of the lack of longitudinal information – most case studies and surveys are one-off.

The most comprehensive cross-national representative survey, the so-called EPOC study, investigates the role of direct participation in organisational change in ten EU countries in the mid-1990s<sup>59</sup>. Like most such surveys, it relies on the reported views of individual managers. Its organisation nonetheless makes it possible to minimise many of the weaknesses of previous surveys by going beyond the simple incidence of named practices such as team working to take into account dimensions such as the coverage, scope and autonomy involved in the practice. Key findings include the following:

- Each of the six different forms of direct participation was associated with improved performance across a range of performance indicators: reduction of costs and throughput time; improvement in quality; increase in total output; decrease in sickness and absenteeism; and reduction in the number of employees and managers.
- The more the number forms of direct participation were involved, the greater the effects – those using 3-4 reported greater effects than those with 1-2 on every variable; and those 5-6 practices similarly reported greater effects than those with 3-4.
- The greater the intensity of the form’s practice, the greater the effects – for example, the greater the scope of team members to

make decisions about task performance and the greater their autonomy in choosing members, the greater the effects.

As for the HPWS debate, the jury remains out. In the words of Delbridge and his colleagues, 'the enthusiasm for 'high-involvement' approaches that was generated by studies of manufacturing plants ... has been tempered by a less than consistent body of evidence that has emerged from subsequent analyses seeking to investigate the broader generalisability of these findings'<sup>60</sup>. As well as the measurement difficulties touched on in Chapter 1, two main explanations are advanced for the tempering. One turns on the connection between working practices and business strategy: moves towards more involved forms of work organisation are most effective in organisations emphasizing quality and value-added; they are unlikely to deliver maximum benefits for those operating under a cost-minimisation model. The other is that effective HWPS require high levels of trust, which are difficult to achieve, given the contradictory pressures to maintain motivation and yet cut costs to the bone. In particular, employee enthusiasm may be limited by past experience, especially if it has involved little more than work intensification and/or job loss.

Further research will no doubt clarify the issues. The current controversy surrounding HPWS should not be allowed to cloud two very clear findings, however. The first is that firms' policies and practices do make a difference - there is considerable dispersion in productivity levels between establishments within both manufacturing and services. The second is that the scope for improvement is considerable even allowing for existing business strategies - the simplest of changes can make a difference.

### *Managing managers*

The proposition in Table 1.1 that employment relations impacts on virtually every aspect of business performance, including its strategic direction, may appear to exaggerate their significance. Arguably, however, this is because employment relations are associated exclusively with the 'managed'. It is often forgotten that most managers are also employees. How managers are recruited, developed and, above all, rewarded is fundamentally important not just for the

way they manage ‘other’ employees, but also for the balance between short-term profitability and investment. It is this balance that influences the organisation’s strategic direction. In the USA and the UK in particular, the last two decades have seen a substantial increase in the use of appraisal systems and managerial stock options, together with other share-related bonuses. As well as opening up the substantial gap between the pay of managers and the managed referred to earlier, this is believed to be a major contributory factor in the process known as ‘financialisation’, i.e. the prioritisation of short term financial results at the expense of longer term development of product market share. It is ‘financialisation’ that has helped to produce the ‘permanent restructuring’ introduced earlier.

In his RSA/Sky Sustainable Business Lecture in March 2010, the then Director General of the UK’s Confederation of British Industry (Richard Lambert) made very similar points, which also take us back to the issue of inequality:

For the first time in history, it has become possible for a manager – as opposed to an owner – of a large public company to become seriously rich.

Of course there are all kinds of reasons why pay levels in our largest companies have risen so rapidly in recent years: the emergence of a global market for talent, much more critical exposure in the public eye, a shorter shelf-life for chief executives, competition from other forms of capitalism like private equity – I don’t need to list them all now.

But there are at least two potentially adverse consequences. One is that where compensation is closely linked to shareholder returns, which it usually is, executives have another powerful incentive to maximise short term profits – especially as their time in office is often strictly limited. If they are only going to be in the job for a few years, it’s hard for them to place great weight on plans that might take a lot longer than that to pay off.

The other adverse consequence is that it is difficult to persuade the public that profits are no more than the necessary lifeblood of a successful business if they see a small cohort at the top reaping such large rewards.

If leaders of big companies seem to occupy a different galaxy from the rest of the community, they risk being treated as aliens<sup>61</sup>.

## **Macro-level considerations: social capital**

This dimension raises the links between the world of employment and levels of trust in the wider society. On the face of it, employment relations would seem to have little connection with issues such as these. Yet this is one of the implications of the increasingly influential social capital thinking. In the words of the OECD, social capital is understood in terms of the 'networks, norms, relationships, values and informal sanctions that shape the quantity and co-operative quality of a society's social interactions'<sup>62</sup>. It resides in relations rather than individuals; it is mainly to be seen as a public good, although it can be dysfunctional if when used by one group against another; and it comes from societal investments as well as being the product of inherited cultural and norms of behaviour. Three main types of social capital can be distinguished:

- bonding – refers to close connections between people, e.g. among family members or among members of the same ethnic groups
- bridging – refers to more distant connections and cross-cutting ties, e.g. between business associates, acquaintances, friends from different ethnic groups, friends of friends
- linking – describes connections between individuals with differing levels of power within hierarchies.

Essentially, it is about trust not only in those with whom we are familiar, but also strangers and institutions, and is fundamentally important in facilitating the resolution of collective problems: individuals are more likely to cooperate when others can be relied upon to act in a similar way. The proposition is that the greater social capital, the greater the contribution to a range of beneficial economic and social outcomes. These include: 'high levels of and growth in GDP; more efficiently functioning labour markets; higher educational attainment; lower levels of crime; better health; and more effective institutions of government'<sup>63</sup>.

Along with family, schools, voluntary and civic associations, work organisations are a major source as well as beneficiary of social capital. Views about justice, for example, or participation and involvement or bullying and harassment are likely to be significantly shaped by workplace experience. Similarly, the extent to which

employees feel they can trust colleagues and, perhaps above all, their employer might be expected to have a significant impact on their willingness to think in terms of collaborative and collective solutions more generally. In the words of the OECD, 'Organisations which 'learn' to socialize knowledge and skills through more effective forms of interaction, networks and norms of trust and co-operation are important sources of social capital'<sup>64</sup>. The OECD goes on to quote studies suggesting that cooperation between management and employees is the basic reason for the competitiveness of the Japanese automotive industry<sup>65</sup>. In the words of Omori, 'In the US company, each worker is eager to make his individual success, and unwilling to tell what he knows to his colleagues. But here, everybody is willing to tell what he knows as much as possible to colleagues. This is because he believes that he can make a success only as a team, not on his own'<sup>66</sup>.

The OECD also suggests that 'more effective forms of interaction, networks and norms of trust and co-operation' can have an importance beyond the immediate workplace. It reminds us that another reported element in the competitive advantage of manufacturing firms in Japan, along with Germany, and parts of Italy, is reckoned to be the higher levels of trust relations between 'clusters' of local firms, enabling greater cooperation in areas such as R&D, marketing and training and development<sup>67</sup>.

The issue of employee 'voice' figures especially prominently. Coats puts the argument most forcibly. Democracy, he argues, 'is about more than periodic elections on a one-person-one-vote universal franchise ... Citizenship has to be learned. It depends on discussion, debate, the assessment of alternative points of view, a democratic decision by majority vote and a willingness by the losers to live with the outcome'<sup>68</sup>. It is here that membership of trade unions and involvement in collective bargaining is to be seen as fundamentally important. Trade unions not only ensure an independent voice, but also an opportunity to be involved in the democratic processes of argument and voting, while collective bargaining means involvement in both making and administering the rules governing the employment relationship. Coats' conclusion does not pull any punches: 'If worker voice institutions are weak then the public domain is weakened. If the

public domain is weakened then the quality of our democracy is diminished'.

### **Macro-level considerations: the economy**

A basic consideration here, helping to explain why the state has become the 'guarantor of the employment relationship'<sup>69</sup>, is the need for policy makers to ensure that employees are able to achieve sufficient levels of purchasing power to be 'confident consumers'<sup>70</sup>. It is not just a matter of the 'social costs' of employment that policy makers have to take into account, in other words, but also the production of consumers who generate demand and hence profitability and growth - it is therefore a crucial ingredient of macroeconomic policy. As Kaletsky reminds us, this is why Kalecki and the Cambridge school of post-Keynesian economists such as Joan Robinson put so much emphasis on the distribution of income between capital and labour<sup>71</sup>. Owners of capital tend to spend less than they earn, whereas workers tend to spend more. If there is a shift in distribution from labour to capital, which there has in most countries in recent years<sup>72</sup>, the danger is that wage earners will run down their savings and increase their debt to maintain the standard of living. The problem is that, in these conditions, the only way to keep the economy going is for government to support demand and banking systems to expand credit – encouraging the 'house price'<sup>73</sup> or 'privatised'<sup>74</sup> 'Keynesianism' that many countries have experienced. But, if this carries on, as it has done in recent years, it is likely to lead to a financial crisis. Chapter 10 returns to the challenge that recent developments pose.

There are also two particular issues that have given rise to considerable controversy. The first turns on the impact of the legal framework of employment relations and the degree of protection it gives to employees. The second brings in the degree of centralisation of a country's structure of collective bargaining/social dialogue arrangements.

#### *The significance of employment protection*

Employment protection legislation (EPL) has always been controversial: employers complain that it restricts their flexibility to

hire and fire; trade unions argue that it is necessary to guarantee a measure of security both on grounds of social justice and performance. In 1999, the OECD produced an index of employment protection legislation, made up of regulation on temporary forms of employment, specific requirements for collective dismissal and protection of permanent workers against (individual) dismissal, which purported to show that there was a positive correlation between the extent of employment protection and the level of unemployment: the higher the levels of EPL, the higher the levels of unemployment<sup>75</sup>. The findings proved to be highly controversial, critics arguing that the OECD was wrong to consider employment protection just as an exogenous cost for employers and had failed to recognise the potential positive welfare implications. In 2004, the OECD returned to the issue with a more balanced appraisal<sup>76</sup>. To paraphrase its overall conclusions:

- The net impact of EPL on aggregate unemployment is ambiguous and can only be resolved by empirical investigation. Employment protection regulation fulfils its stated purpose, which is to protect existing jobs. At the same time, it tends to limit firms' ability to fire and so reduce the re-employment chances of the unemployed.
- It is possible to detect a link between EPL and employment rates for specific groups such as the young and prime-age women, while there may be positive links to the employment rates of other groups. This is because these two groups are more likely to be subject to entry problems in the labour market than other groups and so disproportionately affected by the effects of EPL on hiring decisions. Differences in the strictness of EPL for regular and temporary jobs may be an important element in explaining the rise in the incidence of temporary work for youth and the low skilled (this is less the case for other groups, notably prime-age men).
- EPL has benefits as well as costs and these need to be taken into account in any overall assessment. It may foster long-term employment relationships, thus promoting workers' effort, co-operation and willingness to be trained, which is positive for aggregate employment and economic efficiency. In addition, by promoting firms' social responsibility in the face of adjustment to unfavourable economic circumstances, a reasonable degree of

employment protection could be welfare-improving, i.e. it can help balance concern for workers' job security with the need for labour market adjustment and dynamism<sup>77</sup>.

### *The significance of the structure of collective bargaining*

The second debate centres on the impact of the degree of centralisation of a country's structure of collective bargaining and/or social dialogue arrangements. Throughout the late 1980s and 1990s, the level at which pay bargaining took place was held to play a key role in the trade off between wages, inflation, levels of unemployment and rates of economic growth. In a first phase, the emphasis was on the level where collective contracts were formally negotiated<sup>78</sup>. In a second, the focus shifted onto the degree of co-ordination of bargaining. Centralisation and co-ordination, it was argued<sup>79</sup>, should not be confused.

Both highly centralised and/or highly co-ordinated and highly decentralised bargaining structures were held to outperform intermediate ones, the argument going like this. Where collective bargaining was centralised/ co-ordinated, negotiators had to take account of the wider economic consequences of their actions. Where it was fully decentralised, negotiators had to have concern for the impact of settlements on the firm's competitiveness. Under collective bargaining which was neither centralised/co-ordinated nor fully decentralised, such as the sector-based systems common amongst continental European countries, the wider economic consequences of a decision by wage negotiators in any one sector, in terms of higher costs and unemployment, could largely be externalised to other sectors.

In the 1990s, the links between the rate of increase in wages and unit labour costs and the co-ordination of collective bargaining broke down, reflecting the adoption by central banks of non-accommodating monetary regimes committed to very specific inflationary targets. Even so, the structure of collective bargaining and social dialogue remains influential. For a start, as the OECD observes, 'high union density and bargaining coverage, and the centralisation/co-ordination of wage bargaining tend to go hand-in-hand with lower overall wage inequality<sup>80</sup>. There is also some, albeit weaker, evidence that these features of collective bargaining are positively associated with the

relative wages of youths, older workers and women, with little evidence that employment of these groups is adversely affected'. More generally, to paraphrase Lorenz and Valeyre<sup>81</sup>, collective coordination is believed to play an important role in securing greater cooperation and flexibility at local level: it buffers the workplace from the distributional bargaining over pay that can so easily prejudice such cooperation; and it provides a more solid foundation upon which employers can make the investments in training and skills that are a precondition for adopting high performance working. The implication of Coats' argument quoted earlier is that those countries with wide-ranging provisions for employee 'voice' also reap a benefit in terms of greater trust. In Panic's words, discussing the significance of centralised collective bargaining/social dialogue in Sweden,

The importance of these and similar policies is that they create a unity of purpose and trust ... that enable employers, employees and government to cooperate closely in finding mutually satisfactory solutions to major economic challenges and crises. That gives the countries an advantage of critical importance in conditions of globalisation, which invariably creates serious adjustment problems ...<sup>82</sup>

Hutton also makes the links with the limits on inequality that the OECD findings associated with greater collective coordination. Capitalism, he argues, depends on trust and a willingness to shake hands. Ordinary citizens will only embrace change and potential loss of jobs if they have fair opportunity to benefit and acquire assets to cushion themselves. In his view, the evidence is overwhelming that trust and reciprocity are best fostered where reward and risk are distributed fairly<sup>83</sup>.

## EMPLOYMENT RELATIONS MATTERS

**Table 2.1**      **Why Employment relations matter: summary of findings**

<b>Main areas of impact</b>	<b>Links and mechanisms</b>
<i>Living standards</i> <ul style="list-style-type: none"><li>■ poverty</li><li>■ inequality</li></ul>	<ul style="list-style-type: none"><li>• pay levels (absolute and relative) reflect inter-relationship between type of work organisation, business strategy and employment structure - the more emphasis on 'low cost' as opposed to 'high quality' operations, the greater the likelihood of low pay</li><li>• the design and operation of pay &amp; reward systems, in particular, managerial systems, have major implications for pay structure and equality/inequality</li><li>• the same is true of the level of collective bargaining/social dialogue - collective coordination (multi-employer) helps to achieve greater equality</li></ul>
<i>Health</i> <ul style="list-style-type: none"><li>■ physical health</li><li>■ mental health</li></ul>	<ul style="list-style-type: none"><li>• the extent to which work organisation exposes employees to health and safety hazards is critical; but nature and extent of safety policies/practices can moderate the impact - the more employees and their representatives are involved in their design and operation, the greater the moderation</li><li>• the greater the employment insecurity, the greater the vulnerability to stress and mental illness</li><li>• the more control the type of work organisation allows employees over work demands, the less likely they are to suffer stress leading to cardiovascular diseases and relatively premature death</li></ul>
<i>Personal development</i> <ul style="list-style-type: none"><li>■ technical skills</li><li>■ social skills</li><li>■ personal development</li></ul>	<ul style="list-style-type: none"><li>• the workplace is a major source of human capital</li><li>• the greater the availability of CVT opportunities, the greater the individual's career prospects and earnings potential</li><li>• the more work organisation involves autonomy, task complexity and problem-solving, the more scope for individual learning and development work organisation and HR policies/practices are a major influence on promotion opportunities and so scope for personal growth/upward mobility</li></ul>

**Table 2.1 Why Employment relations matter: summary of findings (cont)**

<b>Main areas of impact</b>	<b>Links and mechanisms</b>
<i>The family</i>	
<ul style="list-style-type: none"><li>■ children’s upbringing</li><li>■ extended family</li><li>■ marriage &amp; birthrate</li></ul>	<ul style="list-style-type: none"><li>• pay levels that are absolutely low are a major cause of child poverty;</li><li>• duration, distribution and flexibility of working time have major implications for work-life-family balance (including ability to undertake caring responsibilities) potentially influencing birth and divorce rates</li></ul>
<i>Business performance</i>	
<ul style="list-style-type: none"><li>■ strategic direction</li><li>■ investment</li><li>■ innovation</li><li>■ productivity</li><li>■ quality &amp; reliability</li><li>■ costs</li><li>■ profitability</li></ul>	<ul style="list-style-type: none"><li>• managerial pay &amp; reward systems influence balance between 'short' and 'long' term horizons and so strategic direction, investment decisions and profitability;</li><li>• the nature and extent of managerial hierarchy have cost as well as control implications</li><li>• the type of work organisation and the extent to which it encourages information/knowledge sharing and cooperation/team working influence performance and productivity</li><li>• the nature and extent of HR policies/practices (especially those providing for participation and involvement) do the same</li><li>• the greater the integration of HR policies/practices, the greater the influence</li></ul>
<i>Social capital &amp; macro-economic considerations</i>	
<ul style="list-style-type: none"><li>■ levels of trust</li><li>■ levels of /growth in GDP</li><li>■ employment/unemployment</li><li>■ competitiveness</li></ul>	<ul style="list-style-type: none"><li>• the workplace is a major source of social capital</li><li>• employees' experience of trust spills over into other spheres</li><li>• the same is true of views about the appropriateness of behaviour, eg bullying and harassment, fairness and justice</li><li>• the nature and extent of employment protection legislation are linked to levels of growth and competitiveness - employees who feel more secure in their jobs are more likely to embrace change</li><li>• the structure of collective bargaining and 'voice' arrangements are similarly linked - collective coordination (multi-employer ) helps to secure workplace cooperation and flexibility as well as greater equality</li></ul>

## EMPLOYMENT RELATIONS MATTERS

**Table 2.2 Incomes and taxes of ‘high-income’ individuals in the UK in 2004–05**

	<i>All taxpayers</i>	<i>Top 10–1 per cent of adults</i>	<i>Top 1–0.1 per cent of adults</i>	<i>Top 0.1 per cent of adults</i>
<i>Number of adults</i>	29,500,000	4,215,483	421,702	46,854
<i>Before-tax annual income</i>				
Minimum value	£5,093	£35,345	£99,727	£351,137
Average value	£24,769	£49,960	£155,832	£780,043
Average relative to all taxpayers	1.0	2.0	6.3	31.5
<i>Net taxes paid</i>				
Higher-rate taxpayers	11.0 per cent	6.6 per cent	99.6 per cent	99.2 per cent
Average net income tax paid	£4,415	£10,550	£49,477	£274,482
Average net income tax rate <sup>a</sup>	17.8 per cent	21.1 per cent	31.8 per cent	35.2 per cent
Deductions permitted from pre-tax income, e.g. pension contributions <sup>b</sup>	2.3 per cent	4.0 per cent	5.2 per cent	6.3 per cent

a This is measured as average tax paid for each group divided by average total income for each group.

b This represents the average proportion of before-tax income that is deducted from before-tax income in order to arrive at taxable income (excluding personal allowances).

*Notes:* All data are presented at the adult level and for Great Britain only. There were 46.8 million adults in Great Britain in 2004–05, and the numbers of adults in the richest bands have been calculated assuming that adults not represented in the Survey of Personal Incomes have incomes below the income tax personal allowance.

*Source:* Brewer and his colleagues’ calculations based on the Survey of Personal Incomes, which is constructed from income tax records by Revenue Customs and allows a more detail look at high-income individuals<sup>84</sup>.

**Table 2.3 Models of work organisation<sup>85</sup>.**

*The 'discretionary learning' model.* Accounts for 38 per cent of employees covered in the survey; characterised by the over-representation of the variables measuring autonomy and task complexity, learning and problem-solving and to a lesser degree by an over-representation of the variable measuring individual responsibility for quality management. The variables reflecting monotony, repetitiveness and work rate constraints are under-represented.

*The 'lean' model.* Accounts for 26 per cent of the population and is characterised by an over-representation of team work and job rotation, the quality management variables and the various factors constraining work pace, i.e. worker autonomy is bracketed by the importance of work pace constraints linked to the collective nature of the work and to the requirement of respecting strict quantitative production norms. Like the *discretionary learning' model*, it displays strong learning dynamics and relies on employees' contribution to problem-solving. By contrast, autonomy in work is relatively low and tight quantitative production norms are used to control employee effort.

*The 'Taylorist' model.* The work situation here, which accounts for 20 per cent of the employees in the survey, is in most respects the opposite of that of the *discretionary learning' model*. There are minimal learning dynamics, low complexity, low autonomy and an over-representation of the variables measuring constraints on the pace of work. Interestingly, however, teams and job rotation are somewhat overrepresented in this cluster.

*The traditional model.* This accounts for 16 per cent of employees in the survey. It is poorly described by the work organisation variables which, with the exception of monotony in work, are all under represented. Methods are for the most part informal and non-codified.

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### 3

## **Coming to terms with the employment relationship**

### **Main tasks**

- **Outline the employment relationship's enduring features**
- **Review the significant variations to be found in practice**
- **Consider the nature and extent of the impact of intensifying competition on the traditional model**

### **Summary**

The employment contract involves a special form of exchange that brings benefits to both parties over and above the labour service equivalent. As well as receiving tangible and intangible rewards, employees are guaranteed a measure of security of employment, while the employer buys the right to use their labour and/or knowledge power largely at their discretion. Each of the disciplines applies its own adjective to describe the employment relationship: economic, legal, psychological, political and social. It is best understood, however, as a managerial relationship. This means there is great uncertainty, fuelling the prospect of divergent goals and interpretation. The relationship is also on-going, which means that there are more or less constant pressures on - and opportunities for - both parties to seek to adjust the exchange in their favour, and it is contradictory, in much as employees cannot be 'commodified' and employers have to pursue the potentially mutually-exclusive strategies of control and commitment. Complicating matters is that the employment relationship involves a complex 'governance' regime of institutions or rules, with scope for differences over both substance and process. Variations reflect two

main considerations. One, which depends on the occupation, involves the balance between ‘contract’ and ‘status’ and largely turns on the extent to which skills are general or specific. The other, which is cross-national, reflects fundamentally different conceptions of the work organisation – whether it is to be seen as a ‘nexus of contracts’ or as a source as well as consumer of human capital. These, in turn, are grounded in different varieties of capitalism and their associated civil law and common law legal systems. Even so, there are common trends. Everywhere, the employment relationship seems prone to ‘juridification’, i.e. the greater involvement of the law and the courts in employment relations matters. At the same time, the traditional model of the employment relationship faces major challenges in the light of competitive pressures in an increasingly global economy: the talk is of a shift in the basis of the ‘psychological contract’ from the ‘relational’ to the ‘transactional’; and the ‘fragmentation of the employment relationship’ resulting from different forms of ‘externalisation’ such as sub-contracting, outsourcing, business sell-offs, spin-offs and buy-outs. Yet management needs commitment as well as compliance. There are also limits to ‘fragmentation’ - managing an ‘extended organisation’ is fraught with difficulties.

## **Introduction**

The employment relationship comes first in the 'matters' that the text deals with because it is central to both practice and theory. It has been described as ‘the characteristic institution’ of capitalism<sup>1</sup>; along with limited liability, it is said to be one of the ‘two great inventions [that] lie behind the rise of the modern business enterprise’<sup>2</sup>. Perhaps not surprisingly, therefore the employment relationship is far from being a straightforward concept. Terms such as ‘work’ and ‘employment’, for example, are very often used inter-changeably. In discussing the employment relationship, however, they need to be clearly distinguished. Work can be defined as ‘purposeful activity directed at producing a valued good or service’, whereas employment is a particular form of ‘work that is performed under contractual arrangements and that involves material rewards’<sup>3</sup>.

There are also three main types of such arrangements. In the first, the employer hires workers on a service contract to undertake a

## EMPLOYMENT RELATIONS MATTERS

specified task or set of tasks - it could be a builder, for example, or an architect or a solicitor. In the second, they hire workers on employment contracts to undertake a range of tasks largely at their discretion or managers who are their agents. The third type of employment relationship may be described as trilateral or multilateral. One employer subcontracts responsibility for providing labour services by entering into a service agreement with another employer, which puts the relationship at second remove. Here the traditional 'binary divide' between dependent and independent employment becomes blurred. Workers may be employees, but 'The traditional functions of the employer may be split between a number of separate entities'<sup>4</sup>: in the case of 'agency work', for example, the employer who pays is not necessarily the one who coordinates.

In most countries the direct or dependent employment contract is by far and away the dominant form of the employment relationship. Indeed, this is so much so that the terms 'employment relationship' and 'employment contract' are used inter-changeably as they are in this text. As the previous chapter pointed out, in the UK, at the end of 2009, according to the Office for National Statistics, just under 29 million or something approaching six out of ten of the population above the age of 16 were regarded as being in 'employment'. Of these, just under 25 million people or 86 per cent were classified as 'employees' and nearly 3.9 million as 'self employed'. Even if every one of the 3.9 million or so self-employed were involved in labour service contracts, which is most certainly not the case, it would still mean that more than eight out of ten were involved in a contract of employment.

The great majority of 'employees' were also on permanent contracts, with 1.4 million or 5.8 per cent on temporary fixed term contracts, which is a proportion that has not changed, contrary to some punditry about developments in atypical working. If there has been a change, it is the balance between full-time and part-time employment. In the same year many more were part-time, i.e. just over a quarter. Arguably, though, this more to do with shifts in employment structure, notably from manufacturing to services, than changing views about the employment relationship.

It is difficult to be precise about the size of the workforce involved in multi-lateral arrangements. It seems safe to conclude,

however, that it remains in the minority. In the UK, the Business Services Association (BSA), which represents companies providing outsourced services, estimates its members employ 350,000 workers producing a turnover of £14.3 billion<sup>5</sup>. Agency workers in the UK, the BSA adds, number some 1.3 million.

## **Enduring features**

### *A special form of exchange*

The reason why the employment contract is the dominant form of the employment relationship is that it involves a special form of exchange that brings benefits to both parties over and above those involved in the labour services agreement. In a phrase, the employment relationship involves a trade-off between employees' need for security and employers' requirements for flexibility<sup>6</sup>.

*Tangible and intangible rewards.* In the case of employees, most attention focuses on the tangible rewards that come from employment, i.e. wages and conditions such as holidays and pensions. There are two main reasons. One is practical. Not only are such rewards critical in living standards but, being quantifiable, and thus generalisable across all manner of jobs, they are the common focus of policy makers and practitioners alike<sup>7</sup>. The second is their significance to employers as well as employees. For wages and conditions, hours of work, holidays and pension rights are not just what the employee receives. They are also 'a price which represents the total cost of enjoying its use'<sup>8</sup>

Intangible rewards have both an internal and external dimension. In Edwards' words, 'what goes on within the employment relationship is crucial, not only in terms of the pay that is earned but also the condition under which it is earned: the degree of autonomy the employee is granted, the safety of the work environment, the opportunity for training and development, and so on'<sup>9</sup>. Fairness has also been a major focus of attention. Externally, employment brings the opportunity for social contact and social status as well as a sense of purpose and personal identity.

Less attention has focused on what is perhaps the greatest intangible of the employment contract: the relative security that comes from a measure of continuity of employment. The point can best be

made by contrasting the employment contract with the labour services agreement. Clearly, the labour services contract also brings both tangible and intangible rewards. Indeed, at first sight, it might be thought that they would be superior on both dimensions. Being one's own boss brings much greater discretion as well as the possibility of higher economic rewards. The great disadvantage of the labour services contract is that it brings little or no employment continuity - which is fundamentally important if the individual has no other source of income. The self-employed also forgo a number of the practical advantages of the employment contract. Arguably, payments for holidays, sickness and pensions are simply a form of deferred pay and provision for them accommodated in higher fees. Their organisation, however, takes time and effort.

*Residual control rights.* The benefits that employers receive from the employment relationship very rarely receive the attention they deserve and yet are critically important if the full significance of the employment relationship is to be appreciated. In both the labour services agreement and employment contract, employees sell their labour and/or knowledge power. Whereas the labour services agreement spells out the work that is to be done in return, however, the employment contract is relatively silent; in one well-celebrated phrase, the employee in effect signs a 'blank cheque'<sup>10</sup>. The point is that the employer does not acquire a specific or quantifiable amount of labour from the employment relationship - if they wanted this, they might just as well opt for a labour service agreement. Rather the employer buys the employee's capacity to work (commonly known as 'labour power' following Marx's original formulation), which requires direction. In the language of transaction cost economics, the employment contract gives the employer 'residual control rights' over employees, which are ex post rather than ex ante.

Transaction costs thinking also helps us to understand the benefits. The would-be employer can be seen as being confronted by a choice between different 'governance' regimes. Other things being equal, the assumption is that they will seek to organise their activities on the basis of market contracts. To do so, however, they have to cope with three main problems: the difficulties of search and information costs occurred in acquiring adequate information about available reliability and price ('bounded rationality'); the costs required to come

### *Coming to terms with the employment relationship*

to an acceptable agreement and draw up an appropriate contract with the other party; and the policing and enforcement costs of making sure the other party does not renege on the terms of the contract ('opportunism'). Also the more specific the skills are to the employer ('asset specificity'), the more acute these problems are likely to be.

In these circumstances, the open-ended employment relationship, coupled with a managerial hierarchy, has traditionally had considerable advantages over the labour service agreement, helping to explain what has been described as the 'historical tendency towards the internalisation of employment relationships'<sup>11</sup>. To paraphrase Marsden<sup>12</sup>, the employment contract is more flexible – managers do not have to specify everything in advance of the act of hiring, which means, in turn, that it is possible to vary detailed assignments in the light of changing circumstances. It is more efficient – it cuts down on the three types of costs (information, bargaining and enforcement) that managers would otherwise incur. It means that managers are able both to develop specific skills that cannot be secured on the 'external' labour market and to ensure an adequate return on that investment. It also means that managers are able to exercise greater control over enforcement of the agreement along with issues such as cost and quality, subject only to the constraints imposed by the law or collective agreements or societal norms.

In short, in the case of the labour service agreement 'governance' is contract-based – the assumption is that the agreement is self-enforcing, with the courts adjudicating in the light of any dispute. In the case of the employment relationship, 'governance' is hierarchy-based – it is managers who determine 'how much work is performed in that time, at what specific task or tasks, who has the right to define the tasks and change a particular mix of tasks and what penalties will be deployed for any failure to meet these obligations'<sup>13</sup>

#### *A managerial relationship*

Each of the traditional disciplines applies its own adjective to describe the employment relationship. Thus, for economists, the employment relationship is essentially an economic or market relationship; for lawyers it is a legal relationship; for politicians it is a political or power relationship; for sociologists it is a social relationship; and for psychologists it is a psychologist one. For the most part, however,

each discipline ploughs its own furrow without reference to the others. Very often, too, as Chapter 1 observed, the primary concern is with confirming the theoretical propositions or methods of the discipline rather than helping to understand the employment relationship itself.

Arguably, although each of these perspectives highlights an important dimension of the employment relationship, helping to explain why its study is multi-disciplinary, none of them captures the essence. For the feature that distinguishes the employment relationship from the labour services agreement is that it is a managerial relationship<sup>14</sup>. This is because, to repeat the argument of the previous section, in entering into an employment relationship, the employer does not acquire a specific or quantifiable amount of labour. Rather they require the right to direct employees. An important corollary, as Chapter 1 pointed out, is that to talk in terms of a labour market gives a very false impression of what is at stake in the employment relationship. Hiring and firing is not even the half of it.

The employment contract may have advantages over the labour services agreement. But managing the employment relationship is far from being straightforward. There are a number of intrinsic features reflecting the trade-off between employees' need for security and employers' requirements for flexibility that complicate matters considerably.

*Indeterminate.* First of all, the employment relationship is *indeterminate* or *incomplete*. Many of the benefits that employees receive from the exchange can be set. This is particularly true of wages and conditions, helping to explain why they are so often the focus of attention. The residual control rights that employers receive in return are a very different proposition, however. In Collins' words<sup>15</sup>, contracts of employment are 'incomplete by design', in the sense that the details of the work to be done are largely left to be decided by managerial direction. Consequently, nothing is automatic about the employment relationship. 'The act of hiring ... is not sufficient to ensure that the job gets done in an acceptable way ... The employee has to be motivated – by encouragement, threats, loyalty, discipline, money, competition, pride, promotion, or whatever else is deemed effective to work with the required pace and care'<sup>16</sup>. Managers also need employees to do more than simply comply with instructions. They need their co-operation and commitment to continuously

improve performance. The sting in the tail is that the motivation and commitment so critical to performance reflect not just the economic return, but also the job satisfaction and emotional reward that people derive from their work. As Chapters 5 and 6 explain in more detail, the upshot is that negotiation and the exercise of domination or power 'over' are integral to the conduct of the employment relationship, regardless of the presence of trade unions.

*Continuous.* The employment relationship is not a one-off exchange as in the case of the labour *services* agreement – it is *continuous* or *open-ended*. This means that it is a relationship that has a history and a future, in which learning and socialisation play important roles. Moreover, the longer the employee is involved, the more experienced and socialised they become, with responses to an immediate situation reflecting this experience and socialisation.

Being *continuous* also means that there are more or less constant pressures on and opportunities for the parties to seek to adjust the exchange in their favour, reinforcing the importance of negotiation and the exercise of power. Most obvious are the occasions of pay reviews that have typically come to take place annually. Any increases in pay, be they individual or collective in coverage, are likely to be linked to expectations of improved performance. Yet more or less any change in the environment can generate pressures on and opportunities for the parties to seek to adjust the basis of the exchange. Historically, it was employees and their trade unions that were most associated with such change and the focus was on terms and conditions. More recently, with intensifying pressure on business performance, it is managers who have come to the fore, with the emphasis shifting to 'continuous improvement' and 'smarter working'.

*Exploitative.* This term is used in both derogatory and literal senses. In the derogatory sense, it is a value judgment about the conduct of the employment relationship in a specific instance. Typically, it is used to describe a situation where the employer pays less than the going rate. In the literal sense, it is a statement of fact about the employment relationship in general. In the words of the Oxford Dictionary, to exploit is to 'utilise (person etc.) for one's own ends'. Employers 'exploit' employees in as much as they deploy their labour and/or knowledge power in order to meet their objectives which, in the case

of private sector companies, is to generate a surplus. Unlike the independent worker, moreover, many employees have little or no say in how their labour or knowledge is deployed. As Chapter 6 explains in more detail, this is because the employment relationship is asymmetric or unequal. Superficially, there are two equal parties – the employer and employee. In practice, these parties are very unequal. Domination or power ‘over’ is a design feature of the employment relationship, being implicit in the basis of the exchange discussed above. Also the employee is a single individual usually with very limited resources who does not have much choice – he/she needs to work in order to secure income. By contrast, the employer is typically a corporate entity very often with substantial resources at its disposal.

*Contradictory.* Another key feature of the employment relationship is that it is *contradictory*. An underlying assumption is that, in as much as they 'sell' their labour and/or knowledge power to be used at the discretion of the employer's agents, the employment relationship involves employees in an act of submission or subordination, regardless of any job satisfaction or material rewards. Yet, unlike other resources, ‘human resources’ are embodied in people - labour differs from other commodities in that ‘it is enjoyed in use and is embodied in people’<sup>17</sup>. To carry on in Edwards’ words, ‘A machine in a factory is also enjoyed in its use and for what it can produce. Yet how it is used is solely up to its owner. The 'owner' of labour, the employer, has to persuade the worker, that is the person in whom the labour is embodied, to work. Managerial relations are the relationships that define how this process take place ...’ As Chapter 1 pointed out, for many employees in democratic societies, the contrast between their organisational and civil lives could hardly be sharper – on the one hand, ‘political democracy’ and, on the other, ‘economic autocracy’<sup>18</sup>.

The employment relationship is also contradictory for those who have to manage it. Employees represent both a cost and an investment, which means constantly making compromises. Motivating employees to do what managers want is also nowhere as simple as it is often portrayed. In Edwards' words again, 'managements have to pursue the objectives of control and releasing creativity ... [and] the problem is that these involve very different and conflicting strategies'<sup>19</sup>. Very tight monitoring is not only costly, but also can reduce the prospects

### *Coming to terms with the employment relationship*

of employees using their initiative. But lax control can mean that different groups and/or individuals may pursue aims and objectives that are incompatible with one another.

*Co-operative and antagonistic.* It is because of these features that the employment contract locks employers and employees into a relationship that is at one and the same time *co-operative* and *antagonistic*. It is *co-operative* in as much as neither party can secure their goals without the cooperation of the other - employers and employees are mutually dependent on one another. Employers may own the capital, but it is employees who deliver the goods or services. Equally true is that employees cannot secure their means to a livelihood unless they help the employer to make a surplus and/or keep costs to a minimum. Similarly, they risk denying themselves opportunities to develop new skills and abilities as well as fulfil themselves.

At the same time, however, the employment relationship is *antagonistic* because it is exploitative and contradictory – in Edwards' words, there is an in-built 'structural antagonism'<sup>20</sup>. Importantly, this does not necessarily mean that there is a general conflict of interest - employees have many interests that the employment relationship may serve. It does mean, though, that the potential for specific conflicts of interest is ever present and that the expressions of such conflicts, be they over the fixing of wages and conditions or the exercise of the employer's discretionary rights, is not just a matter of faulty procedures, 'bad' management or wilful employees. In the UK, recent high profile Employment Tribunal cases in investment banking also confirm that employees at every level of the organisation are affected.

Disputes are the most manifest expression of the conflicts of interest and can be individual or collective, involving a grievance or an appeal to an Employment Tribunal or a strike or collective action short of a strike, such as an overtime ban or 'work to rule'. Other expressions of these conflicts range from the voicing of discontent in attitude surveys, through absence and resignation, which can be regarded as ways of 'exiting' from a relationship regarded as unsatisfactory, to so-called 'organisational misbehaviour' such as theft and sabotage. Chapter 7 deals with the changing pattern of disputes in more detail.

## Variations on a theme

So far the discussion has focused on what might be described as the generic features of the employment relationship. As Chapter 1 emphasised, however, the workplace is not an island unto itself and conduct of the employment relationship depends on the specific social and institutional context. Employees can have very different expectations of their employment relationship as the 'psychological contract' literature discussed later suggests. They can have very different 'orientations to work' as the older sociological studies clearly demonstrated<sup>21</sup>, with very different emphases placed on income, status, identity and social opportunity. The behaviour of managers also reflects the organisations in which they work. For example, the parent company may have a very well-defined philosophical approach to managing people that it extends across its businesses or it may have very strong affiliations to a particular sector that are influential. Of the main dimensions, two main ones stand. One is the occupation. The other is the national system.

### *Contract and status*

To make sense of the differences between types of occupation, there is useful distinction to be made between 'contract' and 'status'<sup>22</sup>. The distinction has both a specific and general meaning. Thus, in Germany, the relationship between career public servants (*Beamte*) and the state is not a private contractual one, but is defined by public law. Disputes are settled by administrative courts rather than labour ones.

More generally, the distinction reflects the differences between the labour services agreement and the employment relationship referred to in earlier. A key consideration is the degree of 'asset specificity'. The more general the skills are, the more likely is the tendency towards 'contract'; the more specific the skills, the greater the tendency to see employees as an investment for the longer term with a special 'status'. Employment relationships based on 'contract' are very close to labour services agreements - indeed, the employees involved are very often the ones whose work is subcontracted, the extreme case being the so-called 'spot market' for daily labourers.

### *Coming to terms with the employment relationship*

At first sight, 'contract' and 'status' roughly equate with the 'transactional' and 'relational' types of employment relationship that feature in the psychological literature<sup>23</sup>. 'Contract' and 'status' are not concepts along a single continuum, however. Rather they comprise several dimensions. Some of these involve a continuum - career is an example. Others represent contrasting types such as 'numerical' and 'functional' flexibility. Table 3.1 illustrates.

Such a framework also does not necessarily mean equating low skill with 'contract' and high skill with 'status'. As already indicated, much depends of the degree of specificity of the skills: a lawyer or financial accountant, for example, may be highly skilled, but their skills are of general rather than specific application. Employees in occupations where the profession offers greater career prospects than the individual organisation – for example, lawyers, financial managers and computer specialists - may incline to the 'contract' model. Some of the trends are also contradictory. Many unskilled groups have only recently been moving towards the 'status' model with the extension of pensions, sick pay and other fringe benefits - indeed, as Jacoby reminds us, many of the features associated with the 'status' model are much more recent than often assumed, with different forms of subcontracting being dominant in many sectors until the end of the 19<sup>th</sup> century; they also reflect legal pressures and employee demands as much as they do managerial strategy<sup>24</sup>. Meanwhile, some high 'status' groups, such as senior managers, have experienced the imposition of very tight targets and performance controls considerably reducing their discretion. There can also be reversions. Some subcontracted work is being brought back in house as practice confirms the importance of having workers under managerial control – maintenance on the national rail network is an example. The situation can also differ significantly between different workplaces. A part-time worker in one of the UK's top supermarket chains such as Tesco or Waitrose may enjoy greater de facto employment security than a high 'status' individual in a less successful organisation.

The 'contract-status' formulation is especially helpful in making sense of many of the changes supposedly taking place in employment relationships. It may be true that employers feel under pressure to make increasing demands on flexibility and greater sharing of the risk<sup>25</sup>. Yet this does not necessarily mean a coherent shift in approach

that characterises many interpretations. Rather industrial relations emphasise an eclectic mix as employers grapple with the contradictions arising from their need for commitment and control discussed earlier<sup>26</sup>. Thus the two approaches can co-exist in the same workplace in the form of the so-called 'core-periphery' model – core employees usually fall into the 'status' category, while the periphery are closer to the 'contract' equivalent.

### *Varieties of capitalism - competing views of the organisation*

As Chapter 2 observed, even though the employment relationship has many common features, there are considerable cross-national differences. In every country, the state has become the 'guarantor of the employment relationship' and yet legal frameworks differ considerably in the nature and extent of the legal protection that is afforded to it in areas such as the formation of individual contracts, their relationship to collective agreements and their provision for termination. These, in turn, reflect contrasting views about the nature of the work organisation, which are grounded in the wider legal, political and social context.

On the one hand is the doctrine of the firm as a 'nexus of contracts', which has been described as the 'dominant legal and economic perspective' in the UK and the USA<sup>27</sup>. Largely developed as the result of economists grappling with the need to accommodate the organisation into neo-classical thinking, it starts from the proposition that the firm is a legal fiction to which the term ownership cannot be meaningfully applied - it is a 'contracting site at which the parties to a business enterprise agree the terms on which they are prepared to supply the firm's inputs and which they are to be rewarded for doing so'<sup>28</sup>. Crucially important for present purposes is that the employment contract is seen as being no different from other contracts – it is purely a market relationship and the parties owe no responsibilities to one another beyond those expected of participants acting in good faith. The mutual advantages of the employment contract over the labour services agreement are effectively ignored as are its implications. Thus, in the words of Alchian and Demsetz<sup>29</sup>, who were responsible for much of the initial thinking, the organisation is merely 'the centralised contractual agent in a team productive process – not some superior authoritarian directive or disciplinary process'. Exclusive

residual rights are vested in shareholders on efficiency grounds and managers are responsible to them only, the share price representing the best value the market can put on the company. Market competition is the key to governance with the emphasis on ‘pay for performance schemes such as stock option grants, an active market for corporate control, and the fiscal discipline of leverage’<sup>30</sup>. The approach, suggest supporters, avoids potential confusion of objectives associated with the alternative stakeholder model that sees managers having responsibilities to multiple interests; it is important in increasing efficiency - in particular it prevents the ‘managerial empire-building’ associated with the growth of large diversified conglomerates in the 1960s and 1970s; and it helps to insure that resources are re-allocated to new initiatives<sup>31</sup>.

One other hand is the variously described ‘capability approach’ or ‘resource-based view’ that informs the thinking behind HRM, the ‘learning/knowledge organisation’ and ‘high performance working’. It also approximates to the thinking in a number of EU countries and is associated with the EU social model. As Table 3.2 outlines, the starting point is that the firm or business is a social organisation, with success largely depending on the ability to satisfy markets for products and services. Management is a key resource as well as process, with responsibilities for coordinating, developing and enabling the skills and talents of other employees. The employment relationship involves market and managerial relationships and its conduct is critical. The key to governance are institutions in the broad sense of the term. In the words of a summary of the position, work organisations are seen as ‘capability structures’<sup>32</sup>. The focus is on how the organisation, ‘an authoritatively structured set of relationships’, creates ‘distinctive capabilities through establishing routines that coordinate complementary activities and skills for particular strategic purposes’<sup>33</sup>.

These perspectives are grounded in a recognition that capitalism does not exist in a vacuum. Rather than a single form, there are ‘varieties of capitalism’ with very considerable differences from country to country in the way that economic activity is organised. This is above all true of the way in which the organisation of production at firm level is linked to the support provided by the external institutions at many levels of the political economy. ‘Markets’ and ‘hierarchies’, it

argued, are not the only coordination ('governance') mechanisms for economic behavior: 'social networks', 'association', and 'state intervention' can also be important. Overall, businesses are said to be 'embedded' within social contexts with the relationship being mediated by institutions that shape the collective supply of inputs (e.g., skills, capital) available to firms and other economic actors with significant implications for the various economic outcomes (e.g., growth, efficiency, innovation)<sup>34</sup>.

A voluminous 'varieties of capitalism' literature has emerged with many different strands. Most attention has focused on the suggestion that there are two main types: the 'liberal market economies' (LMEs) of the Anglo-Saxon countries with their 'shareholder' or 'outsider' systems and the 'co-ordinated market economies' (CMEs) found in Japan and some continental European countries characterised by their 'stakeholder' or 'insider' systems. 'Outsider' systems are associated with dispersed networks of shareholdings, greater reliance on external sources of finance, highly developed stock markets and an active market for corporate control - companies are largely discrete economic actors - 'islands of planned co-ordination in a sea of market relations'<sup>35</sup> - primarily accountable to shareholders. In contrast, 'insider' systems, are distinguished by interlinked networks of corporate, institutional or family shareholdings, a financial system based on long-term bank credit, less developed stock markets and constraints on hostile take-over. In this case, companies' ability to act independently is restricted by ties of mutual obligation to and dependence on various stakeholder groups, including employees.

There is a considerable degree of congruency with another binary model that is rooted in differences in legal systems: CLEs tend to be characterised by 'civil law' systems and LMEs by 'common law' ones. To paraphrase Colling, 'civil law' systems are driven by the desire for one common statement that is applied universally and takes precedent over the wishes of the contracting parties<sup>36</sup>. The courts also play important roles in diffusing these general principles through the influence their decisions exert with widespread implications for commercial and inter-firm relations. The result is that both the substantive and procedural content of employment contracts are affected, with deviation from generally applied business conventions generally frowned on. By contrast, in common law systems the courts

have a much bigger say in the development and application of legal principles. They also prioritise the freedom of social actors to reach the contracts that they want, with the result that precedent is applied through fragmented case by case processes. Thus, whereas in 'civil law' systems the incorporation of the terms of collective agreements is more or less automatic, in 'common law' ones it is selective depending on the prevailing custom and practice

These binary classifications can be criticised for glossing over the very considerable differences between countries in the same category. This is especially so in the case of the CLEs. The role of the state, for example has been fundamentally different in, say, the Latin countries as opposed to Germany or Sweden: in the first case, descriptions such as 'state-led' are appropriate, whereas 'collaborative' or 'consensus' fits the second better. Similarly, while the banks have been the main source of funding in Germany, investment foundations have played this role in Sweden. Also the LMEs are not as homogenous as they appear: for example, there are considerable difference in the common law systems of the UK and the USA - in the UK collective agreements are binding in honour only, whereas in the USA they are deemed to be legal enforceable contracts.

Much depends on different conceptions of how institutions constrain and relate to actor behaviour, which takes us back to Chapter 1 and the different types of institutional analysis. Those who advocate the binary model tend to come at the issues from a 'rational choice' perspective and favour parsimony. By contrast, those inclining to a broader categorisation tend to come from the 'historical institutionalist' approach and emphasise complexity.

Arguably, however, it is not so much the typologies that are important for present purposes. Rather it is the dimensions or basic building blocks that different authors draw on that deserve the attention. In drawing this section to a close, therefore, Table 3.3 draws together the main institutional features that enable and constrain different sorts of business systems, which might also be seen a summary of the influences on the conduct of the employment relationship. In simple terms, the configurations of variables in column 1 are seen as strongly encouraging management to opt for one or other of two main combinations of business strategy/form of work organisation that, in turn, shape the management of the employment

relationship.

### **The traditional model under threat?**

There is something of a paradox about developments in the employment relationship. Everywhere the employment relationship seems prone to the process known as 'juridification', i.e. the greater involvement of the law and the courts in employment relations matters. This is above all true of the UK, where there has been a considerable increase in legislation that shapes the substance of the employment relationship as well as the processes dealing with it. One factor is the coming of the EU – for reasons that Chapter 10 spells out in more detail, the price of having a 'Single European Market', was a considerable extension of individual employment rights. Another is the decline of collective bargaining: the less the coverage of collective bargaining, the greater is the tendency to look to legal regulation to fill the gaps. More generally, what has been described as 'law's allure'<sup>37</sup> can be seen as part of a wider process in society in which legal rules are introduced to help deal with risks and uncertainties that might otherwise result in conflict if actors were left to their own device. Here, contrary to what might have been expected, 'market liberalisation' has been a major cause of 'juridification'<sup>38</sup>; covering for risk has also been a significant factor in the increase in occupational licensing. In any event, the notion of the employment relationship being an essentially private one no longer holds true if it ever did.

At the same time as the law would seem to be minimising the uncertainties associated with the employment relationship, however, there are other developments that are calling into question the stability and security that have come to be associated with it. The mainspring is intensifying competition in an increasingly global market place leading to more or less continuous change and 'permanent restructuring'. Employers, it is proposed, are introducing new organisational forms in place of traditional bureaucratic structures; they are seeking a range of flexibilities – numerical, functional, financial and temporal; they are introducing new forms of agency, temporary and fixed term contracts; and they are focusing more and more on the individual employee, with the adoption of stretching targets and rigorous appraisal and surveillance of performance<sup>39</sup>.

Arguably, much of this has to be taken with a considerable grain salt. As the figures quoted earlier suggest, temporary working is very much the exception rather than the rule. Many supposedly new organisational forms, as Chapter 8 will argue in greater detail, do not involve serious change in work organisation. There are also limits to the flexibility that managers can bear. There are two areas, however, where the implications have to be taken more seriously. These are the ‘changing psychological contract’ and the ‘fragmentation of the employment relationship’.

*A changing psychological contract?*

There is an on-going debate about whether changes are taking place in the ‘psychological contract’ involved in the employment relationship<sup>40</sup>. As the outline of what the ‘psychological contract’ entails in Table 3.4 suggests, the starting point is the recognition that, for all the talk of managerial hierarchy, employment law and collective agreements, individuals cannot be left out of discussions of the employment relationship: the day-to-day conduct of the employment relationship depends very much on perceptions and expectations, reflecting the enduring features of the employment relationship discussed earlier. Indeed, given the imprecision of the employment relationship, these perceptions and expectations may play a more important role than the formal contract. This is above all true of countries such as the UK, where the ‘individualisation’ of the employment relationship has gathered a pace as a result of the decline in proportion of the workforce in trade unions and/or covered by collective agreements as Chapter 9 will confirm.

It is what might be described as the ‘old core issues’ of careers and pensions that have loomed especially large<sup>41</sup>. Historically, these have been seen to be two critical elements in the ‘psychological contract’ in which employees trade off security for their loyalty. Increasingly, however, employers are said to be finding it increasingly difficult to honour these expectations – partly because of the pressure from intensifying competition and partly because of the rising cost of funding pension schemes due to longer life expectancy. Overall, the basis of the employment relationship is said to be moving from the ‘relational’ to the ‘transactional’, with employers seeking to avoid and/or shift the risk involved in some of the traditional features of the

employment relationship. In terms of pensions, it means a move from schemes with defined benefits to ones involving defined contributions. In terms of careers, it means an emphasis on 'employability' (helping employees to become as 'employable' as possible) and 'portfolio careers' (encouraging employees to think in terms of a number of careers with a number of employers rather than a single career with one employer).

For the UK, there is certainly considerable evidence to support the 'permanent restructuring' thesis, which will be discussed in more detail in Chapter 8. Stability is something that few managers can contemplate. Short-term pressures to maximise the share price or, in the case of public services, implement top-down policy changes from governments, mean that day-to-day management of organisations is constantly being disrupted. Adding to the problem in many organisations is the rapid turnover among managers – expectations raised and promises made by one manager can be quickly set aside or disabused by another. The redundancy that was historically associated with economic down-turns has become an accepted or normal way in which firms handle restructuring regardless of overall business performance<sup>42</sup>.

There is also no disputing the facts so far as pensions are concerned. In the UK, there has been a considerable decline in final salary pension or defined benefit schemes in which both parties pay and the employee is guaranteed a pension depending on income and years of employment. In their place have been substituted defined contribution schemes very often accompanied by a reduction in the level of employers' contribution. The result is that many more employees now face the uncertainty of defined contribution schemes with the outcome dependent on stock market performance of the pension fund(s) into which they contribute

The problem of pensions and their funding is universal, but the precise form depends on the balance of funding between employers and the state. In some countries, the proportion of older people's incomes coming from public sources is more than half, i.e. France (85 per cent), Germany (73 per cent) and Sweden (68 per cent). In others, the balance of public–private pension provision is the other way: in the Netherlands public provision accounts for 48 per cent, in the UK 49 per cent and in the USA 36 per cent. In countries where pensions

are predominately funded by the state, the issues are largely general ones. In those where they are they funded mainly by employers and employees, they mainly involve individuals<sup>43</sup>.

There is less evidence to support the notion of the 'end of careers'<sup>44</sup>. In the UK, overall job tenure remained relatively stable in the 1980s and 1990s with change being relatively small at between 2 and 5 per cent: the proportion in long term employment (ten years or more) also showed little change between 1994 and 2004, being just over 30 per cent in both years<sup>45</sup>. A detailed breakdown suggests that it is particular groups for whom employment security has declined. Thus, the job tenure of men over the age of 50 declined as did that of men in lower paid jobs: the Commission on Vulnerable Employment<sup>46</sup> reports that average job tenure for men in the bottom income quartile was seven years, whereas it was 12 years for those in the top income quartile. Furthermore, tenure rates for the lowest-paid have also fallen – from nine years in 1982 to seven years in –.

Further evidence comes from the CBI Director General's telling of the 'remarkable story of what happened to employment numbers' in the UK in the most recent recession<sup>47</sup>. Although they had been cutting costs wherever they could, many employers had decided to retain more people than they had need for, even though that temporarily pushed productivity down and unit costs up - output had fallen by 6.2 per cent from the peak, but unemployment was down just 1.9 per cent. The much greater reluctance to lay people off than was the case in the past, suggested CBI surveys, reflected two main considerations. One was the greater flexibility of wages. Such was the impact that, as well as voluntary unpaid leave and short time working, many employees had been willing to take a reduction. The second was that, since the early 1990s, the proportion of UK working age employees, above all in manufacturing, who have been through higher education had risen from around a fifth to a third. Skilled employees were harder and more expensive to hire and to lay off than others, with plenty of companies complaining of skills shortages before the recession hit<sup>48</sup>.

It also seems that employers recognise that a general shortage of skills means they will have to do more to retain key employees. One consideration is the greater functional flexibility that many require from their employees. In the words of the CBI, 'There will ... be a trend to select and develop employees for a career within

organisations rather than for a specific job, reflecting businesses' preference for staff to be multi-skilled<sup>49</sup>. A second is the priority that is being accorded to management and leadership skills. Shortages of these are also anticipated and dealing with them seen as a particular challenge to address given the timescale for investment returns – typically it can take 3-4 years to see a return on leadership training.

### *Limits to fragmentation?*

Arguably, it is the second of the main challenges, 'fragmentation', that is the most threatening to the traditional model. 'Fragmentation' takes several forms. One is 'individualisation'. Not only has there been a considerable decline in trade union membership and the coverage of collective bargaining, but also a growth in individual performance pay and the like. In terms of pay, as Chapter 8 will argue in greater detail, it may not make a great deal of difference, but it means an undermining of a sense of 'occupational community' associated with trade union membership and collective action. Another form of 'fragmentation' might be described as 'occupational'. In the UK, for example, there has been a considerable growth in the number of 'assistant' jobs in fields such as teaching and nursing, which is blurring the boundaries of long-standing occupations

Perhaps most deserving of attention, though, is the 'fragmentation' that seemingly reverses the historical tendency towards the internalisation of employment relationships within hierarchies touched on earlier. The employment relationship, it seems, is increasingly the subject of 'externalisation'. One form is the subcontracting of some of a business' activities which have previously been undertaken in-house. In some cases, recalling the contract-status in a previous section, this involves the explicit adoption of a 'core-periphery' model, in which the organisation distinguishes between those employees who have skills that are very 'specific' to the business and those that are more 'general' in character. Another form is associated with what have been described as 'platform' companies - Apple and Dell are examples. In this case, the outsourcing of most activities is a key element of business strategy from the very beginning. A third type combines the first two and is to be found in the public sector. At the time of writing at the end of September 2010, Suffolk county council in the UK is proposing to make itself into a 'virtual' or 'enabling'

authority. It would not be providing public services itself, in other words, but commissioning them from social enterprises or private sector companies. In practice, this means that, instead of employing around 27,000 people as it currently does, the council would be responsible for but a few hundred primarily involved in contract management<sup>50</sup>. On the face of it, there could hardly be a more extreme application of the 'nexus of contract thinking' discussed earlier.

Subcontracting and outsourcing are not the only types of 'externalisation', however. In the UK, organisations are said to be being subjected to a process of 'permanent restructuring'<sup>51</sup>. In part, such restructuring follows from the widespread adoption of 'divisionalisation' (the break-up of large-scale organisation into semi-autonomous businesses units or Executive agencies), 'budgetary devolution' (the allocation of responsibility for managing activities within financial resources or targets) and 'marketisation' (the greater application of market principles to decision making, e.g. in the form of 'competitive tendering' and 'market testing', joint ventures and partnerships). In part, it reflects a process of 'financialisation', in which competition is based not so much on products and services, but the returns on investment regardless of sector, leading to a variety of investment/divestment forms such as business sell-offs, spin-offs and different forms of buy-outs, along with merger and acquisition.

The result, as an earlier section pointed out, is that the traditional binary divide between contracts of employment and contracts for services is becoming increasingly blurred. Indeed, in the UK, the growth of trilateral or multilateral arrangements is leading some employment lawyers to suggest that it is time to replace the 'contract of employment' with the 'personal employment contract' as the core concept of labour law<sup>52</sup>.

Certainly the effects of 'externalisation' can be considerable as far as employees are concerned. Many find themselves working for very different organisations from the ones they joined, with significant implications for their pay, career prospects and pensions, not to mention their health and well-being. Some who were in permanent jobs are now in temporary ones, with the employer who pays often being different from the one who directs. Morale and commitment are also affected with implications for productivity and performance - collective or organised conflict in the form of strikes may have

declined, but individual expressions such as absenteeism show no signs of abating.

Establishing how widespread 'externalisation' is poses problems because of the variety of forms that it takes. Certainly, in the UK, there has been an increase in the number of workers involved in non-standard forms of contract such as temporary and fixed-term contract working; the same goes for agency working. There has also been an increase in subcontracting and self-employment<sup>53</sup>. Much of this took place in the 1980s and 1990s, however. On the face of it, although the 'core-periphery' model mentioned earlier has been canvassed for around a quarter of a century, yet its extent appears to remain relatively limited. In 2004, according to WERS, 16 per cent of establishments reported having temporary agency workers, but these only amounted to two per cent of the combined workforce<sup>54</sup>. Only one in ten had freelancers, very few of whom were engaged in the work of the largest occupational group. The great majority (86 per cent) subcontracted some services. Again, however, these rarely involved the largest occupational group - the mostly common subcontracted activities were building maintenance and cleaning affecting 59 per cent and 52 per cent of the total number of establishments respectively. Also it emerges that, over the previous five years, eleven per cent of establishments had brought in-house activities that had previously been provided by sub-contractors. Not to be forgotten either is that the number of self-employed remains very much a minority.

It may be that with the onset of the recession, there will be further increases, especially as a result of public expenditure cuts. This is particularly true of subcontracting and outsourcing, which appear to have considerable continuing appeal for employers as a recent CBI overview suggests in the case of the UK<sup>55</sup>.

Yet there are grounds for being cautious in making such a prediction. The logic of subcontracting and outsourcing is clear enough. It is difficult to quarrel with the argument that managers need to focus their energies on the 'core' business. If they are running airlines or railways, for example, they should leave matters such as catering or maintenance to 'specialist' businesses. The 'market' will ensure that these businesses operate as effectively and efficiently as possible. It also means that pay and conditions will reflect those

prevailing in the sector rather than those of employees in the ‘core’ business. Perhaps even more basically, there is an understandable tendency to assume that, once activities are subcontracted or outsourced, managing the employment relationships becomes someone else’s problem - out of sight becomes out of mind.

Arguably, however, there are limits to ‘fragmentation’ that take us back to the earlier discussion of the enduring features of the employment relationship. The problem is that, while subcontracting and outsourcing may be fine in theory, managing the ‘extended organisation’ that they involve is far from straightforward – which is why companies brought many ancillary activities in-house in the first place and why others are doing the same presently. Like the employment relationship, subcontracting and outsourcing are not automatic in their effects – the contracting process can be time consuming and complex, while ensuring adherence to the contract requires skills in relationship management which few operational managers who managed the function before possess. Also, unless the main contractor is involved in managing the employment relationship throughout the supply chain, the danger is that they will experience many of the problems that can be incurred, but will not have the capability to deal with them. Indeed, if their relationship with their subcontractors is based simply on low cost, the problems are likely to be exaggerated – for the avoidance and shifting of risk affects employer-employer as well as employer-employee relationships. Not only is there likely to be a lack of commitment and/or identification with the parent company and its products/ services. There also likely to be costs to quality and reputation that are rarely fully considered. For example, organisations that do not seek to ensure that their supply chains maintain decent standards are likely to find themselves the increasing focus of ‘naming and shaming’ campaigns as has happened in the case of some of the large retail clothing chains in the UK which outsource manufacturing to developing countries.

Many examples of organisations experiencing subcontracting and outsourcing problems can be quoted. In the UK, recent high profile cases would include National Rail and London Transport, where maintenance has been brought back in house, and BA, which experienced considerable disruption as a result of the activities of Gate Gourmet, the company to which it outsourced its catering services.

## EMPLOYMENT RELATIONS MATTERS

Perhaps, though, there can be hardly be a more dramatic illustration than that of Toyota. It was not just the scale of the problem that Toyota experienced, with the company having to recall over million cars world-wide in 2009-10 due to complaints about reliability. The 'Toyota' model had been universally recognised to be the supreme exemplar of 'lean production' not just in the automotive industries, but across the board. The main problem, as Toyota's chief executive publicly acknowledged, was that the company had become 'confused about some of the principles that had made the company great: its focus on putting customers first and its ability 'to stop, think and make improvements''<sup>56</sup>. More specifically, it seems, the majority of problems originated in the 'tier-two' suppliers which provide individual parts or assembled components for Toyota and/or its 'tier-one' original equipment manufacturers. Break-neck expansion to overtake General Motors meant that many of these were from outside Japan and Toyota did not have decades of experience working with them as it had with its other suppliers. Making matters worse was that the company did not have enough senior engineers to maintain the levels of contract supervision that it had applied to long-standing suppliers.

*Coming to terms with the employment relationship*

**Table 3.1 'Contract' and 'status'**

	<i>Contract</i>	<i>Status</i>
tasks/ work organization	highly prescribed	some discretion
security of employment	low	relatively high
type of flexibility	mainly 'numerical'	mainly 'functional'
skill specificity	relatively low	relatively high
training and development	very little	some
career prospects	very limited	fairly extensive
'voice'	very little	some

**Table 3.2 Competing views of the work organisation<sup>57</sup>**

	Nexus of contracts	Resource-based
Role of the organisation	vehicle for contracting	providing goods and services
Role of managers	coordinate contacts	direct and support
Responsibilities	shareholders only	multiple stakeholders
Main focus	capital market	product market
Main form of competition	external/merger and takeover	internal growth/process and product development
Performance measures	share price	market share
Scope for coordinated action	limited	significant
Horizons	short term	medium/long term
Relationship between management and employees	purely market	market and managerial
View of labour	commodity whose cost is to be minimised	resource to be developed
Methods of securing commitment	financial/use of market type devices such as stock options maximisation	financial plus training and development/voice/consultation

**Table 3.3 Varieties of capitalism: building blocks and links<sup>58</sup>**

<p>1 Role of the state</p> <ul style="list-style-type: none"> <li>▪ degree to which state relies on market regulation</li> <li>▪ degree to which state encourages intermediary organisations</li> </ul> <p>2 Financial systems</p> <ul style="list-style-type: none"> <li>▪ ‘capital-market-based’ v ‘bank-based’</li> <li>▪ ‘blockholder’ v ‘dispersed’ share ownership</li> </ul> <p>3 Corporate governance arrangements (‘insider’ v ‘outsider’ control)</p> <p>4 Nature &amp; extent of vocational training provision (balance between state, market, individual cos, co associations &amp; co networks)</p> <p>5 structure of collective bargaining/ social dialogue</p> <ul style="list-style-type: none"> <li>▪ levels of bargaining/ social dialogue</li> <li>▪ scope of collective agreements</li> <li>▪ nature and extent of coordination</li> </ul> <p>6 Nature &amp; extent of employment protection legislation</p> <p>7 Nature &amp; extent of employee ‘voice’ provisions</p> <p>8 Social security provisions</p> <ul style="list-style-type: none"> <li>• level of benefits</li> <li>• balance of public–private pension provision</li> <li>• administration (government v ‘Ghent-type’ v company)</li> </ul>	<p>Balance between coordination mechanisms, ie</p> <ul style="list-style-type: none"> <li>▪ markets</li> <li>▪ hierarchies,</li> <li>▪ state intervention</li> <li>▪ associations</li> <li>▪ social networks</li> </ul>	<p>Nature of business strategy, ie extent to which</p> <ul style="list-style-type: none"> <li>▪ products/ services are standardised or customised</li> <li>▪ competition is primarily via price or quality</li> <li>▪ product/ service volume is high or low</li> </ul> <p>Nature of work organisation, ie</p> <ul style="list-style-type: none"> <li>▪ ‘traditional’</li> <li>▪ ‘Taylorist’</li> <li>▪ ‘lean’</li> <li>▪ ‘learning’</li> </ul>	<p>Governance of employment relationship</p>
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### **Table 3.4 The psychological contract**

To paraphrase the Chartered Institute of Personnel Development (CIPD)<sup>59</sup>, the psychological contract is a concept developed by the likes of Argyris, Levinson and Schein in the early 1960s. It has been defined as 'the perceptions of the two parties, employee and employer, of what their mutual obligations are towards each other'. These obligations will often be informal and imprecise: they may be inferred from actions or from what has happened in the past, as well as from statements made by the employer, for example during the recruitment process or in performance appraisals. Some obligations may be seen as 'promises' and others as 'expectations'. The important thing is that they are believed by the employee to be part of the relationship with the employer.

The psychological contract can be distinguished from the legal contract of employment. The latter will in many cases offer only a limited and uncertain representation of the reality of the employment relationship. The employee may have contributed little to its terms beyond accepting them. The nature and content of the legal contract may only emerge clearly if and when it comes to be tested in an employment tribunal.

The psychological contract looks at the reality of the situation as perceived by the parties, and may be more influential than the formal contract in affecting how employees behave from day to day. It is the psychological contract that effectively tells employees what they are required to do in order to meet their side of the bargain, and what they can expect from their job. It may not - indeed in general it will not - be strictly enforceable, though courts may be influenced by a view of the underlying relationship between employer and employee, for example in interpreting the common law duty to show mutual trust and confidence.

The CIPD draws on Guest and Conway<sup>60</sup> to outline below the kinds of commitments employers and employees might make to one another:

*Coming to terms with the employment relationship*

**Employees promise to:**

**Employers promise to provide:**

Work hard

Pay commensurate with performance

Uphold company reputation

Opportunities for training and development

Maintain high levels of attendance and punctuality

Opportunities for promotion

Show loyalty to the organisation

Recognition for innovation or new idea

Work extra hours when required

Feedback on performance

Develop new skills and update old ones

Interesting tasks

Be flexible, for example, by taking on a colleague's work

An attractive benefits package

Be courteous to clients and colleagues

Respectful treatment

Be honest

Reasonable job security

Come up with new ideas

A pleasant and safe working environment

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- <sup>59</sup> Based on Chartered Institute of Personnel Development. 2010. 'The psychological contract'. *Fact Sheet*. Latest version available at [www.cipd.co.uk](http://www.cipd.co.uk)
- <sup>60</sup> Guest, D.E. and Conway, N. 2002. *Pressure at work and the psychological contract*. London: CIPD.

## **Institutions – the stuff of employment relations**

### **Main tasks**

- **Identify the core organisations, institutions and processes with which employment relations is concerned**
- **Emphasise importance of these institutions as the ‘rules of the game’, together with their role in promoting ‘path dependency’ and ‘isomorphism’**
- **Explain why employment relations institutions differ cross-nationally, highlighting ‘critical junctures’ rooted in different ‘varieties of capitalism’**
- **Review the forces driving change, the mechanisms involved and the direction of travel**

### **Summary**

The ‘governance’ of the employment relationship involves a mix of internal and external institutions. Although work groups are important, the internal are largely the result of management decision making – these embrace not just the personnel policies and practice that are the standard fare of personnel management and HRM courses, but also work organisation and coordination and control structures. The external reflect the activities of trade union and professional associations, the results of collective bargaining (joint regulation) and decisions of the legislature and judiciary (legal enactment).

### *Institutions – the stuff of employment relations*

Institutions are central to employment relations because they influence beliefs and actions, and so help to shape outcomes in the ways described in Chapter 2. Institutions constitute the rules of the game' – they are not only 'regulative', but also 'normative' and 'cognitive'; they make for behaviour that is 'path dependent', helping to explain why history is important in understanding their origins and development; and they encourage a strong tendency towards imitative behaviour, helping to explain within-country similarities. Cross-nationally, there are substantial differences in the institutions of employment relations. This is above all true of the external dimension, i.e. the structure of collective bargaining and legal framework, mainly reflecting 'critical junctures' in the development of the many 'varieties of capitalism'. There are major debates as there are in other fields of institutional analysis about the drivers of change and the balance between, on the one hand, 'markets' (e.g. the globalisation of capital and product markets) and, on the other hand, political developments such as the EU's 'social dimension'; the mechanisms of change – where the issue of the agency ('entrepreneurship') of management and the state is especially prominent, along with different types of adaptation or 'bricolage'; and the direction of change – whether common developments such as the process of economic globalisation, the rise of services and demographic changes are leading to greater convergence or, rather, 'converging divergences'<sup>1</sup>, with developments characterised by 'increasing diversity within national systems but ... increasing convergence between them'<sup>2</sup>.

## **Introduction**

Institutions have always loomed large in employment relations studies. Indeed, some of the pioneers of the study, notably Commons in the USA, are regarded as seminal figures in the development of institutional analysis more generally. As in other areas, however, as time went by, there was a tendency to assume that the underlying importance of institutions could be taken for granted, along with their meanings for the different actors. The focus shifted onto the detail of the institutions of employment relations and the organisations involved – the workings of trade unions, the origins and development

of the structure of collective bargaining, and so on. The result was that employment relations increasingly came to share the ‘serious shortcoming’ associated with institutional studies more generally, i.e. it very often degenerated into ‘naïve empiricism and historicism’<sup>3</sup>.

Fortunately, as the institutional ‘turn’ has taken hold, things are changing, making it possible to begin to answer some of the main criticisms of institutionalist analysis<sup>4</sup>. One, that it does not do enough to tease out the links between behaviour and outcomes, was a feature of Chapter 2. Others, which are the subject of the present chapter, are that it does not identify the institutions that matter or explain why they do, why they existing configurations take their present form given very similar conditions and why and how they change over time.

### **Mapping the terrain**

As Chapter 1 has pointed out, employment relations deals with two main types of institutions or ‘rule’. The substantive rules cover the ‘what’ of the employment relationship. The procedural deal with how the substantive rules are made, bringing in issues of process such as management decision making, collective bargaining or joint regulation and legal enactment. In each case, these institutions can be formal or informal. Most obvious are the formal rules that flow from management decisions, the rule books of trade unions and professional associations, collective agreements and legislation. Sitting alongside the formal rules, however, will be informal norms, expected patterns of behaviour and ‘custom and practice’. For example, the formal rules may be interpreted very differently from one unit to another in the same workplace – there may even be an informal rule that the formal rules will be ignored by managers and employees. Or work groups may develop their own codes of behaviour, which may parallel or substitute for the formal rules.

The main focus here is on the formal institutions and the task is to outline the core ones, along with the organisations and processes involved. As the overview in Table 4.1 confirms, there are a number of levels and a number of authors, helping to explain the increasing dominance of the term multi-level governance. At the risk of over-

### *Institutions – the stuff of employment relations*

simplification, however, a distinction can be drawn between internal and external dimensions.

#### *The internal dimension*

The exercise of the residual control rights involved in managing the employment relationship entails a hierarchy-based ‘governance’ structure, i.e. institutions or rules, in which superordinates (managers) give instructions to subordinates (employees). As Table 4.1 shows, there are three main areas where the managerial hierarchy finds expression. Most attention focuses on personnel or HR policies and practice, which tend to be the centrepiece/standard fare of personnel management and HRM courses. Clearly, how people are recruited, trained, appraised, paid and disciplined are important, which is why they underpin concerns with the impact on businesses performance discussed in the previous chapter. Arguably, however, such policies and practices are only the tip of the iceberg. Decisions about the other two areas outlined in Table 4.1 are fundamentally important.

One is the nature of work organisation. As Chapter 2 explained, this is especially important because of its very considerable implications for health and personal development opportunities. Relevant here are the extent to which tasks are complex or simple and repetitive or varying; whether there is job rotation and team working; the nature of the constraints determining the pace or rate of work (whether, for example, there are ‘automatic’ constraints linked to the rate as which equipment is operated or a product is displaced in the production flow or ‘norm-based’ constraints linked to the setting of quantitative production norms; the nature and extent of the ‘hierarchical’ constraints linked to the direct control exercised by immediate superiors; and ‘horizontal’ constraints linked to way work rate is dependent on the work of colleagues; the degree of autonomy(methods used and the pace or rate at which work is carried out); the learning dynamics (whether the individual learns new things in work and whether the work requires problem-solving activity). the way quality is controlled (the use of precise quality norms and individual responsibility for the control of quality)<sup>5</sup>.

Also important are the wider arrangements for the coordination and control encapsulated in the term ‘organisation structure’. Thus activities can be organised around products or functions or some combination of the two (i.e. a ‘matrix’ organisation). In the case of the large multi-establishment enterprise, there can also be considerable differences in the extent to which decision making is centralised or decentralised reflecting the variety of products and services. In single business businesses (so-called ‘critical function’) organisations such as a car manufacturer or retailer, decision making tends to be highly centralised, with individual establishments being seen largely as cost centres. In multi-business (‘multi-divisional’) organisations, by contrast, strategy and investment decisions are decided centrally, but responsibility for operating management is much more decentralised with individual establishments being treated like profit centres subject to a variety of ‘key performance indicators’ (KPIs). In recent years, as later chapters will elaborate, in both cases there has been a considerable shift in emphasis from the management by task characteristic of traditional organisational structures to management by financial performance with the consequences for the fragmentation of the employment relationship discussed in Chapter 3.

### *The external dimension*

As Table 4.1 also makes clear, management decision making is not the only rule-making process involved in the governance of the employment relationship. There are other processes that involve external agencies/organisations, helping to explain why the employment relationship is a multi-level phenomenon. Thus, almost invariably, trade unions and professional organisations have emerged to represent their members’ interests at the level of the occupation and/or sector. Looking at the left hand column, many occupations are to a great or lesser extent subject to decisions and norms of trade unions and professional organisations. Indeed, historically, it was out of this unilateral regulation, and the ‘closed shop’ that was effectively involved, that collective bargaining often developed. Even with the banning of the ‘closed shop’ in most countries, the requirements of entry, the length of the training programme, and codes of conduct help

### *Institutions – the stuff of employment relations*

to make employment what it is for many of the ‘professional’ groups involved in finance, health and the law. Training programmes, for example, typically involve arrangements that gradually and selectively induct new members into the network and up the social hierarchy. There has also been an increase in the workforce subject to some form of occupational licensing – in the UK it is of the order of 13.5 per cent and in the USA almost 30 per cent<sup>6</sup>.

Paralleling unilateral regulation has been the collective bargaining shown in Table 4.1 (1). This process, as the next chapter explains in more detail, is not just about setting wages or the other conditions of employment. A more appropriate term is ‘joint regulation’. Collective bargaining, in other words, describes a process of making and administering the rules that govern the employment relationship. Crucial here is the structure of collective bargaining, where four main dimensions have to be highlighted. One is the level of the negotiations – whether, for example, the negotiations affect one or all the workplaces in a company and, even more importantly, whether they affect just the single employer or many employers. A second is the unit of negotiations – whether an entire occupation or sector is covered or just an individual employer. A third is the scope of collective agreements – to take the extremes, there can be an emphasis on procedures to deal with any of the substantive issues involved or there can be an attempt to deal comprehensively with specific substantive issues. A fourth is the form of collective agreements, the main feature of which is their legal status: in most countries, collective agreements are deemed to be legally enforceable contracts, whereas in the UK they are binding in honour, unless the parties stipulate otherwise; in most countries where multi-employer bargaining is the dominant form, they also have the effect of compulsory codes and supplementing or replace legal regulation. As Chapter 2 showed, the structure of collective bargaining and in particular the levels at which it takes place are linked to issues of inequality, social capital and economic performance.

The ‘governance’ of the employment relationship does not just involve a private system of rule-making, however. As previous chapters have emphasised, the nature of employment relationship obliges the state to intervene. In most countries, employment law

## EMPLOYMENT RELATIONS MATTERS

intervenes directly or indirectly to help shape the contract of employment at the heart of the employment relationship. As well as procedures for resolving disputes, the state intervenes in two main ways. The first is in setting mandatory standards. Most attention focuses on individual employment rights dealing with discipline and dismissal, equality, minimum wages, health & safety and so on. It is not to be forgotten, however, that the expectations of and obligations of employees are also covered. The second main way in which the state influences the employment relationship is by introducing procedures making possible variations in the terms of the employment relationship to the employee's advantage. Most notably, there are the provisions under which trade unions are to be recognised and collective bargaining practised. In many countries, there are also provisions for employee 'voice' in the form of statutory works councils with powers of information, consultation and (in some countries) co-determination.

The role of the state is also fundamentally important in setting the framework of corporate governance of the business in which the employment relationship is conducted. Again, this can be directly in the form of legislation or indirectly in the form of codes of principles very often overseen by a financial services authority or its equivalent. Crucial issues include the function and purpose of the company, the role and composition of boards of directors, the audit process, the interests of the different stakeholder groups and merger and acquisition (M&A) activity.

As Chapter 10 discusses in more detail, the motivation for the state assuming the role of what has been described as the 'guarantor' of the employment relationship<sup>7</sup> is complex. It is not just a matter of 'holding the ring' as many studies assume. Equally, it is not just about dealing with market failure, which is the starting point for economists. Basically, the state intervenes in the attempt to maintain a balance between employees' need for security and employers' requirements for flexibility<sup>8</sup>.

The other main source of public rules is the judicial system ranging from local employment tribunals or their equivalent through to the European Court of Justice. In the UK, where the common law system prevails, much employment regulation reflects the decisions of

Employment Tribunals and the judges. At EU level, there have been some landmark decisions of the European Court of Justice with a fundamental impact. For example, the decision that health and safety should be considered as part of the move to the Single European Market, and therefore subject to majority voting, was a major catalyst for developments in the 1990s. Similarly, the Court has come up with landmark rulings on pensions.

### **The significance of institutions**

The reason why these institutions are a major focus of employment relations study is that they give effect to the employment relationship. The generic features of the employment relationship discussed in the previous chapter do not exist in a vacuum. They are embedded in institutions and it is these that help to explain why conduct of the employment relationship can differ from one occupation and workplace to another.

In formal terms, the institutions involved in the governance of the employment relationship are an intervening or mediating variable as well as a dependent one, meaning that they have effects as well as causes. Crucially, as Chapter 2 argued, employment relations holds that these governance structures have a very significant effect on key outcomes – notably on the quality of working life, the economic performance of business and a country's 'social capital'.

In terms of its approach, all three types of institutionalism mentioned in Chapter 1 are to be found<sup>9</sup>. If there is a dominant tendency, however, is that of 'sociological' and 'historical' institutionalism. Crucially, the influence of institutions is seen as not just constraining and/or enabling actions, as it is in the case of 'rational choice' treatments but also shaping individual preferences as well. In Scharpf's words, 'institutions ... define not only what actors can do, but also their perceptions and preferences - and thus what they will want to do'<sup>10</sup>. As he goes on to summarise: whereas the logic of action for 'rational choice' institutionalists is one of 'instrumentality', for their 'sociological' and 'historical' counterparts it is 'appropriateness'.

These differences are also reflected in the treatment of organisations. In 'rational choice' treatments, organisations are usually excluded from definitions of institutions. The 'players' have to be separated from the 'rules', in North's words, in order to maintain the notion of rational actors making decisions within an institutional environment<sup>11</sup>. In 'sociological' and 'historical' institutionalism, there is not this clear-cut distinction. In keeping with this approach, employment relations views organisations as structures of rules and rule-making processes. Furthermore, it does not assume a community of interest so far as these rules and the processes involved in their making are concerned.

The remainder of this section singles out three concepts that help to understand why employment relations holds institutions matter so much: the significance of institutions as the 'rules of the game'; their importance in promoting 'path dependency'; and their role in explaining why there is such a strong tendency towards imitative behaviour on the part of those who run work organisations.

### *The 'rules of the game'*

The phrase 'rules of the game' is increasingly used to capture the significance of institutions. Institutions are regarded so because they establish both rights and obligations - from one point of view they constrain behaviour; but from another they enable it<sup>12</sup>. They also do so both directly and indirectly - even if individuals do not always strictly obey the rules, the way they adapt their behaviour is affected by them. Moreover, rules are deemed to be especially important in situations where actors are involved in co-operative endeavour involving uncertainty and concerns about the enforcement of any agreement. The employment relationship is perhaps the extreme case for the reasons quoted the previous chapter.

Yet it is not just a case of being able to read off standard behaviour from a particular set of institutions. Much depends on the way that people relate to rules. Here it is useful to distinguish between the three main dimensions or, following Scott<sup>13</sup>, 'pillars' of institutions. The first is 'regulative'. Institutions can cause individuals to make certain choices or perform certain actions because they fear

punishment. For example, employees may see little point in a particular management rule, but they conform because managers have the power to impose sanctions on them if they do not. Similarly, employers may strongly object to a particular piece of employment protection, but go along with it to avoid a claim before an Employment Tribunal or its equivalent.

The second pillar is normative. In Hay's<sup>14</sup> words, 'institutions are normalising in the sense that they tend to embody shared codes, rules and conventions, thereby imposing ... value systems which may constrain behaviour'. A good example would be the norms governing the behaviour of particular groups of employees with common beliefs and values. People act out of a sense of duty or an awareness of what one is 'supposed' to do – things are done because this is the right way or proper way to behave. For example, professional employees such as doctors or nurses may have expectations about appropriate behaviour that reflect the acculturation that takes place during the long period of their training and development.

In the case of the third or 'cognitive' pillar, the reaction to rules is likely to be largely unconscious. Essentially, the norms are shared conceptions that individuals have internalised. In Scott's words, 'compliance occurs in many circumstances because other types of behaviour are inconceivable; routines are followed because they are taken for granted as 'the way we do these things''<sup>15</sup>. Not only that. 'Institutions serve to embody sets of ideas about what is possible, feasible and desirable and the means, tools and techniques appropriate to realise a given set of policy goals'<sup>16</sup>. Such is the force of the routines and associated ways of thinking, in other words, that people seem to be unable to 'think outside the box'. It is in this way that conceptual frameworks and policy paradigms can become 'self-fulfilling'<sup>17</sup>. A good example is that of neo-liberalism raised in the Preface – the more dominant this ideology became, the more difficult it became for policy makers to think in terms of pragmatic solutions to problems, let alone conceive of alternative ways of thinking about them.

Several points are worth emphasizing. The first involves the legitimacy of the three different 'pillars'. 'Regulative' rules that are obeyed simply because of the fear of sanctions tend to enjoy less

legitimacy in the eyes of those subjected to them than those that are 'normative' and 'cognitive'. The result, very often, is that employees do what they have to and no more. It is this reaction that many managers are highlighting when they refer to a lack of engagement – the reluctance to go the extra mile. The second is that there is very considerable potential for conflict between the 'regulative' pillar, on the one hand, and 'normative' and 'cognitive' pillars, on the other. Examples of the clash between the 'regulative' and 'normative' pillars are to be found in the health sector. The stringency of managers' budgets can sit very uneasily with strong notions of professional ethics of doctors or nurses or care workers. The 'regulative' and 'normative' pillars can similarly collide. The desire of managers to raise productivity may come up against employees' long standing notions of what constitutes a 'fair day's work'. This is above all true where such notions are long standing and have been informally condoned by previous generations of managers.

The complexity and multiplicity of the formal and informal institutions typically in play can also pose problems. A good illustration involves bullying and harassment at work, which are recognised to be an increasing problem. Conventional management wisdom sees this as largely a matter of individual behaviour. Some people doubtless get pleasure from hurting others. There is a growing body of evidence, however, to suggest that most bullies are a product of circumstances rather than personality. Most bullies are managers. Many managers, it seems, cannot distinguish strong management from bullying. Many believe that they are simply conforming to the 'command and control' model of management that their senior managers promote. Others are encouraged to believe that the 'stick' is more effective than the 'carrot'. Being under pressure themselves is another common characteristic. In short, bullying and harassment are largely a product of the structure of rules, formal and informal, within which managers work. The remedy involves a combination of high profile procedures, i.e. formal countervailing rules, and intensive training that is designed to deal with informal as well as formal behaviour

It is sometimes suggested that the coming of the 'knowledge organisation' changes things. True, the setting changes - workplaces

### *Institutions – the stuff of employment relations*

tend to be smaller and the boundaries of work organisations more blurred; collectivism and collective bargaining are usually less important; and there is more emphasis on culture, i.e. informal institutions, than formal rules. Even though they may be different, ‘rules of the game’ there undoubtedly are. ‘Knowledge organisations’ have hierarchies; recruitment and selection processes; job descriptions; training and development routines; posting and transfer arrangements; performance management systems; disciplinary processes; and so on – all of which have a significant influence.

#### *Path dependency*

The second key concept anticipates some of the later discussion about change. Most immediately, it helps to explain why there is so much attention to historical development in employment relations. It is widely assumed that not only do actors have considerable ‘strategic choice’ in what they do, but also that their decisions reflect the demands of the immediate situation – it is as if they take a snapshot of the ‘market’ and technological situation confronting them and proceed accordingly. More often than not, however, these considerations take second place. It is institutions that ‘lock’ actors into a particular course from which they find it difficult to deviate and the ‘evolution of institutions is conditioned by path dependency’<sup>18</sup>. The more institutions become embedded in routine and convention, in other words, the more influence they exert - today’s decision reflects yesterday’s decision, which reflects the decision the day before and so on. It is these past decisions about institutions that set actors on a particular course that they find it difficult to deviate from even if the situation might seem to demand it. Indeed, actors are unlikely even to consider the full range of options that might be available to them. To go back to the discussion of the importance of context in Chapter 1, the notion that the status quo reflects a process in which the ‘natural selection of market forces weeds out inferior institutions’ is far from being the case<sup>19</sup>.

Three considerations are particularly important in explaining why people can become locked into a particular path, helping to explain the enduring features of institutions. One is the costs associated with

change. Celebrated examples include the QWERTY keyboard – although the development of electronic keyboards allows more effective layouts, QWERTY remains the standard because of the costs that would be involved in changing.

The second is that ‘the density of the existing institutional fabric in given social or political context renders established practices process and tendencies difficult to reform and steer.’<sup>20</sup> Here public services reform in the UK offers good example. Time and time again policymakers have sought to make major changes on a piecemeal basis, failing to recognise that the individual changes they wish to make are significantly affected by a raft of other issues.

The third is that the process of institutional development gives some a position of privilege and strength to fight for the maintenance of the status quo. Scharpf, who is one of Germany’s foremost policy process analysts, puts it nicely in discussing the immense difficulties of changing long-established pension and social protection arrangements in EU countries. It is the ‘path-dependent constraints of existing policy legacies’ and the ‘institutional constraints of existing veto positions’ that deserve our attention in understanding why things happen or do not happen<sup>21</sup>.

The concept of ‘path dependency’ is useful not just in understanding national level frameworks. To illustrate its wider potential, a strong case can be made for suggesting that ‘path dependency’ is fundamentally important in helping to explain what has been described as one of the great ‘conundrums’ of employment relations namely why, despite the evidence and exhortation, there has been so little movement in the direction of ‘high performance working’<sup>22</sup>. Arguably, each of the three considerations is in play. The costs of changing are likely to be considerable, above all in terms of training and learning. The existing institutional framework also represents a major problem. For example, the introduction of ‘serious’ team working has significant implications for almost every aspect of personnel policy, ranging from recruitment and selection, through training and development to appraisal and reward. Finally, there is the importance of vested interests. Very often managers themselves represent the biggest barrier to changes in work organisation. Major changes in the direction of team working, for example, not only have

implications for skills of individual managers, but also their numbers, privileges and status.

### *Isomorphism*

The language and concepts of our third consideration come most immediately from the ‘organisational’ strand of institutionalism. The underlying sense, however, has deep roots in employment relations analysis as will be shown below. Basically the argument is that, because organisations operate in an environment made up of institutions, survival does not just depend on being successful economically, but also on the legitimacy of the ways in which they conduct their business. One key way in which those in control seek to achieve legitimacy is to adopt ‘accepted’ practice, i.e. behave like other organisations undertaking similar activities. But the more people behave like one another, the greater the expectation that they will do so. In Marsden’s words, ‘Predominance feeds on itself’<sup>23</sup>.

‘Isomorphism’ is the term used to describe this tendency<sup>24</sup>. There are two main types – ‘competitive’ and ‘institutional’. The first, ‘competitive isomorphism’, is informal and assumes a system of economic rationality presupposing market competition. The second, ‘institutional isomorphism’, is what concerns us here. Essentially, it involves three political mechanisms, which can be formal or informal:

- ‘coercive’, in which actors come under pressure to conform to particular policy or practice
- ‘mimetic’, in which there is a strong tendency for actors faced with common constraints to respond to uncertainty by copying others
- ‘normative’, in which policies and practices become ‘professionalised’ and assume the status of accepted standards.

In the first case, for example, managers may find themselves constrained to commit themselves to programmes of corporate social responsibility, which may include community activities as well as arrangements to protect the environment and be ‘good’ employers. The more companies become involved in these kinds of activities, the more pressure on others to follow suit. In the second, managers may

embark on significant benchmarking exercises with a view to legitimizing the need for change in the eyes of employees and uncertain management colleagues. They may target close competitors and/or companies well known for expertise in particular functional areas. The widespread promotion of Japanese ‘lean production’ methods in the 1980s is a very good example<sup>25</sup>. In the third, managers may feel that they have to adopt the policies and practices that have come to be incorporated into the prescriptions of consultancy and professional organisations, thereby attaining normative status. In the UK, for example, achieving *Investors in People* status is a way of demonstrating an organisation’s commitment to the development of its employees.

Although the language of ‘isomorphism’ is relatively recent, the underlying ideas have long been a feature of employment relations analysis. Thus it is widely accepted that fairness plays a key role in shaping employee expectations and fairness depends on comparisons. Runciman’s three types of reference groups, ‘membership’, ‘comparative’ and ‘normative’<sup>26</sup>, which are helpful in understanding the varying intensity of comparisons, are very similar to DiMaggio and Powell’s three types of ‘institutional isomorphism’. Or, to quote another example, it was Ross who originally coined the term ‘orbits of coercive comparison’ as long ago as 1948 in emphasizing the importance of institutions in wage determination. Following the ‘pattern’, suggested Ross, enables employers and trade unions to reconcile the former’s competitive constraints with the latter’s need to achieve fairness:

The ready-made settlement provides an answer, a solution, a formula. It is mutually face-saving ... it is the one settlement which permits both parties to believe that they have done a proper job, the one settlement which has the best chance of being ‘sold’ to the company’s board of directors and the union’s rank and file<sup>27</sup>.

Such tendencies appear to be an enduring feature that cut across the boundaries of national institutions. Thus, in recent years, there has been a very considerable convergence in the rates of change of wages across EU member states. This rarely results from a formal process of

co-ordination, however. Rather it reflects the more informal process of ‘isomorphism’ discussed here<sup>28</sup>.

### **Diversity issues**

There is much that is common cross-nationally about the institutions involved in employment relations. The employment relationship has given rise not just to managerial hierarchies, but also to trade unions and professional associations; and the state has intervened both directly in the form of legislation and indirectly via agencies to deal with specific issues such as the resolution of disputes and some form of collective bargaining. At the same time, however, in each of these areas, there are considerable differences even allowing for very similar technology and market structure. This is even true of the managerial hierarchies. As Chapter 2 has shown, these can differ considerably in their nature and extent from one country to another – organisations are said to be ‘heterogeneous’<sup>29</sup>, reflecting the ‘visible hand’ of managerial decision making, as Chandler famously suggested, rather than the ‘hidden hand’ of market forces<sup>30</sup>. Clear too is that these differences are not just filters for the impact of wider forces – they make a difference to outcomes as Chapter 2 has shown.

Most obviously, there is the balance between the different processes of rule-making - unilateral and joint, public and private – reflecting the ‘varieties of capitalism’ discussed in Chapter 3. It is the external dimension where the most obvious difference are to be found, for example, in the balance between internal and external regulation and in the structure of collective bargaining and legal framework. First, individual rights tend to be more extensive in co-ordinated market economies’ (CMEs) than ‘liberal market economies’ (LMEs), helping to explain the position of the USA and the UK in the OECD’s employment protection legislation ranking discussed in Chapter 2. Second, the universal rights to representation for the purposes of employee information, consultation and, in several cases codetermination, are greater CMEs than LMEs, reflecting the formal ‘voice’ rights accorded to employees as stakeholders in ‘insider systems’. Thus, works councils or equivalent trade union bodies have,

for example, the right to be informed of – and in most cases consulted over – major changes to the company.

A third distinguishing feature is the structure of collective bargaining. In the CMEs the predominant multi-employer structure of bargaining, in which collective agreements are deemed to be not just compulsory contracts but also compulsory codes, means that collective bargaining is more inclusive than in the LMEs, where single-employer bargaining is the norm. Consequently, the benefits of employer association–trade union negotiations are in practice extended throughout a sector or across a country and are not just the preserve of the well organised. Such a structure also enables the participation of employers’ organisations and trade unions in macro-level dialogue with governments over economic and policy. Many features of the overall employment relations systems are affected, including the membership density, structure and organisation of trade unions and employers’ associations, along with the role of the state in wage bargaining, which also has implications for the degree of centralisation of trade unions and employers’ organisations.

These features are refracted in corporate governance arrangements. As Chapter 3 suggested, there has been a tendency to distinguish two main types: the ‘outsider’ system characteristic of the LMEs and the ‘insider’ systems found in the CMEs. In the first, the legal framework gives overwhelming priority to shareholder interests, whereas the second emphasise those of a wider range of ‘stakeholders’ including employees.

There is a broad consensus that the different ‘varieties of capitalism’ are grounded in the prevailing economic and political context at the time of industrialisation. At the risk of oversimplification, two sets of variables stand out. First, state and legal traditions were a critical component. For example, in the so-called ‘Latin’ countries (France, Italy and Spain), the Napoleonic tradition of the all-powerful state was deeply embedded. The way the state dealt with issues such as trade policy and protection crucially affected the strategies and behaviour of enterprises and so the emerging business system. By contrast, state traditions in the UK and USA were much more *laissez-faire*.

### *Institutions – the stuff of employment relations*

Closely related were legal traditions. A key implication of the ‘legal origin’ hypothesis is that one of the main influences on national business systems is one or other of the principal legal families, namely the English ‘common law’, and the ‘civil law’ in its French, German and Nordic variants<sup>31</sup>. In brief, countries with a ‘common law’ background are said to have found it easier than their ‘civil law’ counterparts to develop rules for the ‘governance’ of the business enterprise. One reason is that systems of the ‘common law’ are more adaptive than ‘civil’ ones to changing economic conditions because of differences in the ‘political channel’ of influence. Another is that the ‘common law’ provides fewer opportunities than the ‘civil law’ for rent-extraction by ‘insiders’. In each case, the basis for the claim is the association of the ‘common law’ with contract and self-regulation and of the ‘civil law’ with centralised state control.

The second set relate to the emerging business system in which organised labour emerged. A key factor here was the timing and pace of industrialisation: in countries that industrialised early, such as the UK, craft production exerted a strong influence; in countries industrializing later, mass production technology tended to be more predominant. The significance of such variables as the patterns of ownership and control, the financial system and the stock market has been mentioned above. Also important was the size of firms. Other things being equal, the larger firms found it easier to resist the challenge of trade unions using company unions and the like. Smaller firms, by contrast, found it more difficult to go it alone, helping to explain different resort to employers’ organisations.

The extent of concentration was also important. In countries such as the UK, where was a greater concentration of firms in industries such a metalworking, powerful sector employers’ organisations emerged; in others, such as Sweden and Italy, where the business structure was more diverse, multi-sector employers’ confederation quickly came to prominence. Making a link with state traditions, the ability of employers to withstand trade unions reflected not just the nature of the market, but also the degree of protection the state afforded them. In some cases - Sweden is an example - relatively small firms operating in competitive export markets were constrained to reach a compromise with trade unions relatively early in the process

of industrialisation, albeit it with an important co-ordinating role for the peak employers' confederation. In others - Germany is the obvious case - the large firms operating in protected domestic markets were able to withstand the pressure for much longer.

Important though the political and economic context of industrialisation was, they do not provide the complete explanation for unfolding developments. Also important were 'critical junctures' involving the emergence of organised labour with the ability to cause problems in the form of strikes and other demonstrations. In the UK and Sweden, for example, the critical developments took place in engineering in 1998 and 1906 respectively. In most other European countries the die was cast in the periods following the two world wars. In the USA, the period of Roosevelt and the 'New Deal' confirmed the emerging pattern. In Japan, it was the period immediately after World War 2 and US occupation that did the same<sup>32</sup>.

Important to note is that, with the exception of Germany and Japan, where arrangements were drawn up by the allied powers, there was no grand design. Rather the institutions that emerged were borne of conflict, negotiation and compromise. Sometimes employers imposed the compromise; sometimes the state did. Far from being the 'self-balancing equilibrium' that they may appear today, the compromises were much contested and essentially reflected a truce rather than a final settlement. Moreover, few of the parties were happy to let matters rest; most looked for opportunities of shifts in the balance of power to improve their relative position<sup>33</sup>. Take multi-employer bargaining. For trade unions, the sector agreement was the beginning of the process of seeking influence over the employment relationship; for employers it was the end - the neutralisation of the workplace involved helped to uphold managerial prerogative.

It also follows that, although they set countries on a particular course, the compromises were not as fixed or immutable as may appear from a present day perspective. This is especially true of employment relations' external institutions. Further 'critical junctures' punctuated any 'equilibrium' that may have seemed apparent. In the UK, developments in the 1920s such as the engineering lockout of 1922 and the failure of the Mond-Turner talks following the 1926 General Strike help to explain why the parties stayed on the path of

### *Institutions – the stuff of employment relations*

‘voluntarism’ – employers were in the ascendancy and saw no good reason to disturb the status quo; in Sweden, by contrast, growing industrial conflict led to the passage of the Collective Agreements Act and Labour Court Act in 1928 and the long-standing desire of Swedish employers to confirm the legal status of their substantively-based collective agreements.

More generally, following Thelen, two main mechanisms can be also identified through which institutions are transformed. One is ‘institutional layering’, which involves the ‘grafting of new elements onto an otherwise stable institutional framework’ – in the UK, the extension of collective bargaining to sectors where it previously had not existed, (e.g. the chemicals industry) following the Whitley Committee report at the end of World War 1 would be an example. The other is ‘conversion’, where the ‘adoption of new goals or the incorporation of new groups into the coalitions on which institutions are founded can drive a change in the functions these institutions serve or the role they perform’ – Thelen quotes the example of the German trade unions, who initially saw the training arrangements as a major threat, but who were subsequently incorporated into their operation to become major champions<sup>34</sup>. Briefly put, change is largely seen in terms of ‘punctuated evolution’, in which ‘periods of comparatively modest institutional change are interrupted by more rapid and intense moments of transformation’<sup>35</sup>

Space does not allow accounting for every single institution that is involved even in the external framework of employment relations. One of the most important is the structure of collective bargaining and whether the negotiations are single or multi-employer. Table 4.2 therefore seeks to account for the differences, with Chapter 9 updating developments in multi-employer bargaining in the light of recent pressures.

### **Change issues**

Change looms increasingly large in employment relations analysis because of the particularly destabilizing impact associated with developments in globalisation. Three major dimensions predominate. The first revolves around the drivers of change and the balance

between economic and political forces. The second involves the mechanisms of change. The third issue is the direction of change and the extent to which this involves greater convergence and, if so, what is involved.

As Chapter 1 has emphasised, these issues have raised a number of fundamental philosophical issues that are the subject of debate across the social sciences. One revolves around the balance between structure and agency in accounting for outcomes and largely boils down to a question of how much choice actors have. Following Hay<sup>36</sup>, two extreme positions can be identified. At one extreme is ‘intentionalism’, i.e. the tendency to account for outcomes purely in terms of the agency of actors. At the other is ‘structuralism’, i.e. the tendency to reduce outcomes to the operation of institutions or structures beyond the control of actors. A key issue is how structure and agency are connected and how they influence each other.

A second issue concerns the role of ideas in helping to bring about change. Here, again, Hay<sup>37</sup> is helpful in summarising the main positions that can be identified. In the first, ‘idealism’, ideas are held to have an independent influence on outcomes – it is not just a question, in other words, of rational actors operating within material structures. In the second, ‘materialism’, ideas are accorded little or no influence and/or are regarded themselves as a product of material conditions. In the third, ‘constructivism’, it is the interaction between ideas and material conditions that are emphasised. Outcomes cannot be read off of the ideas or material conditions. Instead, they are ‘a product of the impact of the strategies actors devise ... to realise their intentions upon a context which favours certain strategies over others and does so irrespective of the intentions of the actors themselves’<sup>38</sup>.

The third issue goes to heart of the differences between the three strands of institutionalist analysis discussed earlier. The key distinction turns on the assumptions made about actors and their preferences. ‘Rational choice’ institutionalists start from the proposition that actors have standardised and stable preferences defined by their personal or organisational self-interest. As in economics, these actors are assumed to act rationally in their self-interest. ‘Organisational’ and ‘historical’ institutionalists, by contrast, emphasise that the attitudes, expectations and interaction of individual

### *Institutions – the stuff of employment relations*

actors reflect different contexts and different experiences – hence the emphasis on a logic of appropriateness rather than a logic of instrumentality. In Ackers words, individuals are social rather than economic beings 'living in real time and places .... They are products not only of their own histories but also those of the institutions within which they live and work'<sup>39</sup>.

As the remainder of the chapter will try to show, although some of the terminology may be different, most of these issues have figured in employment relations analysis, along with an awareness of the underlying philosophical debates. Most obviously, the issues of the drivers and direction of change have been a live debate for a half a century. Until recently, the mechanism of change had received less attention. Such is the pace of change popularly associated with 'globalisation', however, that topic is receiving increasing attention.

#### *The drivers of change*

As long ago as 1958, Dunlop asked whether the main drivers of change were 'technological and market considerations' or institutions generated by the interaction of social actors and reflecting the 'locus and distribution of power in the wider society' typically expressed in the form of public policy<sup>40</sup>. In discussing the main drivers of employment relations change, most recent commentators emphasise the impact of globalisation. Two sets of trends have to be distinguished. First are the developments that are integral to a process of economic globalisation. These include the removal of trade barriers and the expansion of international markets for products; the spatial extension of international competition as new market economies, such as China and central and eastern Europe, have emerged; the sectoral extension of international competition as economic activities previously conducted within national boundaries and/or on a non-market basis are opened up, through market deregulation, privatisation and/or marketisation; the liberalisation of financial markets and the development of a world-wide capital market; and the internationalisation of production and market servicing through the operations of MNCs whose growth the other developments have encouraged<sup>41</sup>. It is these that most commentators seem to think lie

behind changes such as the role reversal of management and trade unions and the changing policies of the state.

Arguably, however, it is the second set - the trends that are essentially global in incidence – that are just as if not more important. Here three main ones may be identified. First, the new technologies and revolution in information processing facilities made possible by the microchip and associated software developments, which are not only affecting the way operations are performed and products delivered, but also leading to the creation of new economic activity. Second is the seemingly inexorable rise of the service sector. Both have important implications for the size and location of workplaces, the occupational and gender composition of the workforce, the nature of employment contracts and trade union membership. Many of the emerging new economic and service activities are also out with the established structures of collective bargaining. Third are the demographic changes affecting the industrialised countries. Key trends have been low birth rates and a decline in the working life – reflecting a fall in youth participation rates and an increase in the proportion of older workers withdrawing from the workforce before official retirement age.

Important though these considerations undoubtedly are in driving change, public policy also continues to matter reflecting Dunlop's 'locus and distribution of power in the wider society'. Thus, while many policy makers see European integration primarily as a market phenomenon, others see it as offering new opportunities to deal with the multiple challenges confronting existing employment relations systems, helping to explain why the EU has developed a not inconsiderable social policy competence. In the UK especially, this has had a profound impact. In many other EU countries, criticism of the EU's so-called *acquis communautaire* comes predominantly from those who think it has not gone far enough. This is because, in most cases, extensive regulation already exists either in the form of national legislation or multi-employer agreements. In the UK, however, where there has been a lack of comparable regulation reflecting the tradition of 'voluntarism', the *acquis* has touched on virtually every area of employment relations other than association, industrial action and wage determination – not to mention human rights. Listing only those

### *Institutions – the stuff of employment relations*

areas where there has been major legislation gives us freedom of movement of workers; equal opportunities in terms of age, disability, gender, race, religion and sexual orientation; health and safety; collective redundancy and business transfers; working time; the proof of employment; information and consultation – both national and cross-national; maternity and parental leave; equal treatment for part-time and temporary workers (with agency workers to come); pensions; employment agencies; data protection and corporate governance. The result has been a fundamental shift in emphasis from collective to individual rights with an increase in ‘juridification’ in the sense of the involvement of the law and the courts in employment relations matters.

The contrast also nicely illustrates the battle of ideas that is taking place. To paraphrase Salais and Villeneuve<sup>42</sup>, EU social and employment development is seen as being at the crossroads between ‘activation’ and ‘capability’ routes, reflected in debates about which of the two Treaty ‘titles’ is to be accorded priority: *Title VII* dealing with ‘Employment’ or *Title XI* on ‘Social policy, education, vocational training and youth’. The ‘activation’ approach (arguably, another term for ‘neo-liberal’) is about ‘activating’ people into jobs, the main instrument being welfare regulation reform. By contrast, the ‘capability’ approach seeks to improve living and working conditions, along with social protection, both as an end and a means to an end: what matters is what a person can do and be, given the appropriate resources. Similarly, a firm’s competitiveness resides not in cost minimisation, but in its capacity to innovate, learn from and cooperate with others. Consequently, rather than deregulating labour markets, government intervention should be designed to improve capabilities – of firms, sectors and territories as well as individual citizens. Herein is the basis for endogenous development that emphasises specialisation in products and services reflecting Europe’s specific advantages.

### *The mechanisms of change*

Historically, most commentators emphasised the agency or ‘entrepreneurship’ of trade unions and the state in bringing about change, with management receiving little more than perfunctory

attention. Thus, it was the policies and approaches of the state and trade unions, for example, which were seen as largely shaping the development of collective bargaining and the legal framework. More recently, there has been a considerable shift in emphasis from the role of trade unions and the state to that of management, helping to explain the emphasis on human resource management. A key turning point was the publication of *The Transformation of American Industrial Relations* by Kochan and his colleagues in 1986. Here management is seen as a 'strategic actor' or agent of change in determining the main changes taking place in employment relations, reflecting the pressures of business strategy to be pursued. Faced with intensifying international competition, above all in key manufacturing sectors such as aircraft manufacturing, autos and steel, US management was said to be confronted with the choice of pursuing a strategy of either quality or low cost. Both routes involved making radical changes in existing industrial relations arrangements and, in particular, in the provisions for collective bargaining of the 'New Deal' system dating back to the 1930s.

As for specific mechanism of change, it will be recalled that Chapter 1 outlined the 'actor-centred' institutionalist approach. Visser and Hemerijck use of this to analyze developments in Dutch employment relations shows how actors are able to make changes notwithstanding the constraints of 'path dependency'. In particular, they highlight the role of three types of adaptation or 'bricolage'<sup>43</sup>. In the first, 'patching up', additional rules and procedures are grafted onto existing institutions and processes. An example, which Chapter 9 will expand on, is the increasing flexibility built into multi-employer agreements in France, Germany, the Netherlands and Sweden. In the second, 'transposition', institutions established for a particular purpose are put to different uses. Here perhaps the clearest example is that of collective bargaining itself. In most countries, collective bargaining has been seen primarily as a vehicle for improving on the legal status of employees. In recent years, however, as the next chapter will show, it has added a wider range of functions: it has become an instrument of adaptability as the bargaining agenda is oriented towards questions of competitiveness and employment; and it has also assumed or re-assumed a key role in macro-economic

### *Institutions – the stuff of employment relations*

management as many national governments have responded to the adjustment pressures under European Monetary Union (EMU) by seeking cross-sector national agreements with employers' organisations and trade union (so-called 'social pacts') embracing wage moderation, greater labour market flexibility and reform of social protection systems.

The third mechanism is 'social learning' – the creation of situations where actors are exposed to a range of fresh influences whose implications they have to discuss and debate in a 'public regarding way'<sup>44</sup>. Again, a good illustration is the negotiation of 'social pacts to deal with the implications of the EMU – an example of 'Europe learning from Europe' in Teague's words<sup>45</sup>. The process of EMU itself did not involve European-wide mechanisms for handling the implications of a single market and a single currency. It did nonetheless put a figure on the external constraint in the form of the convergence criteria for monetary union, along with a clear timetable for its achievement, both of which sharply focused attention on the need for action. The European Commission's 'policy entrepreneurship' in encouraging of an all-round view of policy-making (on wages, employment, social protection, fiscal and macroeconomic policies) also played a part: 'The Member States' joint experience in these areas has been harnessed and exchanged at European level ... This pooling of European experience has undoubtedly contributed towards a broader perspective on national views and deeds'<sup>46</sup>. Especially significant was that social pacts were consistent with the approach being advocated at EU-level and were a cross-national phenomenon – it was this that helped to give them considerable legitimacy. Even though member states had willingly entered into EMU they were able to present it in the national arena as an 'external constraint' helping to justify far-reaching reform.

#### *The direction of change - convergence **and** diversity?*

The direction of change has been a recurring theme in comparative employment relations analysis. Kerr and his colleagues laid down the gauntlet a half century ago (1960) in their *Industrialism and industrial man*. Not only were the main drivers of change held to be markets and

technology. They were also supposedly leading to a convergence of approach that would slowly, but surely, supersede the essentially idiosyncratic arrangements, reflecting different historical development, patterns of industrialisation and business systems. The presumption was also of convergence towards the US model, based on internal labour markets and company-based collective contracts.

An alternative view, appropriately dubbed the ‘diversity approach’, developed in response. One variant was the ‘societal approach’ of Maurice and his colleagues<sup>47</sup>. There were key enduring cross-national differences, they argued, that resulted from the structural interdependencies peculiar to each society, involving interactions between the training, production and industrial relations systems. Another was the ‘national business systems’ approach, which argued that persistent differences in capitalist organisation reflect distinctive national development paths along the lines discussed earlier<sup>48</sup>. Both variants have contributed to the view that has become central to employment relations analysis, namely that institutions are not simply the shells and transmission belts for economic and technological forces. Rather institutions are generated by the interaction of social actors at critical historical junctures and persist over time, creating ‘path dependency’.

Most recently, the so-called ‘dual’ or ‘co-convergence’ thesis has become prominent. Thus, in distinguishing the two main ‘varieties of capitalism’ introduced in Chapter 3, Hall and Soskice suggest that convergence within each type is accompanied by divergence between them<sup>49</sup>. Traxler arrives at a not dissimilar position, although in this case ‘path dependency’ rather than convergence is the dominant force. His main thesis is that the ‘way in which industrial relations systems accommodate to external changes is self-referential’ - the prevailing structure of collective and legal framework ‘guide the direction of adaption by defining the possibilities for renewing the compromise between capital and labour under changed conditions’<sup>50</sup>. On this basis, a fundamental distinction is to be drawn between the countries with multi-employer bargaining and legal frameworks supportive of collective bargaining (which roughly correspond with the CMEs) and those with single-employer bargaining and less supportive frameworks (which fit the LME category).

### *Institutions – the stuff of employment relations*

In a further development a strand of comparative analysis has emerged that underlines the ‘interdependency’ inherent to the processes of convergence and divergence reflecting differences in the speed, form and spatial ‘reach’ of developments at the various levels<sup>51</sup>. Much depends, in other words, on the level of activity, recalling the discussion of ‘multi-level governance’ in Chapter 1. The cross-national diversity so evident at national level can hide significant similarities at sector and company level, reflecting the need to confront common problems as Dunlop himself suggested in *Industrial Relations Systems*<sup>52</sup>. It is not a question of convergence *or* diversity, but of both convergence *and* diversity. Growing international integration may prompt convergent developments within sectors, and in particular within MNCs, *across* national systems, which may result in increased diversity between sectors and companies *within* national systems. Surveying developments across seventeen European countries in the 1990s, Ferner and Hyman conclude that: ‘... the (somewhat paradoxical) picture that emerges is one of increasing diversity within national systems but of increasing convergence between them’<sup>53</sup>.

## EMPLOYMENT RELATIONS MATTERS

### **Table 4.1 Core processes and structures (1)**

#### *Organisational structure*

- product or business or area based
- task and/or performance controls
- tiers of managers/ spans of control
- target-setting/ resource allocation processes
- budgetary controls

#### *HR policies and practices*

- recruitment & selection
- training & development
- appraisal
- reward
- participation & involvement
- discipline & dismissal

#### *Work organisation*

- nature of tasks (repetitiveness/monotony/complexity)
- degree of autonomy (methods used/ pace of work/ responsibility for quality)
- ‘hierarchical’ constraints (direct control by supervisors/targets/budgets)
- ‘horizontal’ constraints (extent of dependency on colleagues)
- opportunity for on-the-job problem-solving
- opportunity for on-the-job learning

**Table 4.1 Core processes and structures (2)**

*The legal framework: corporate governance*

- business function & purpose
- balance between shareholder and employee rights
- board composition
- codes of conduct
- merger and acquisition

*The legal framework: employment*

- health & safety
- individual employment rights
- TU recognition and collective bargaining
- employee representation
- dispute resolution
- role in pay determination

*Professional regulation*

- entry standards
- training & development
- promotion
- role in pay determination

*Collective bargaining*

- level – multi-employer or single employer; multi-industry or single industry; company or workplace
- unit – coverage in terms of occupation (single or multi-occupation)
- scope – coverage in terms of subject matter
- form – voluntary agreements or legally enforceable contracts/codes

**Table 4.2 The structure of collective bargaining<sup>54</sup>**

For the most part the recognition of trade unions did not occur in a piecemeal and *ad hoc* fashion, with individual employers weighing up the advantages and disadvantages of such a decision; the structure of collective bargaining was not the result of employers or, for that matter, trade unions or governments making a rational choice from a number of possible options. Rather both recognition and the structure of collective bargaining are deeply rooted in an historical compromise which reflects the impact of industrialisation, in particular in the metalworking industries. In the UK and Western Europe, multi-employer bargaining emerged as the predominant pattern largely because employers, above all, in the metalworking industries were confronted with the challenge of national unions organised along occupational or industrial lines. In Britain, the procedural bias of multi-employer has its origins in the engineering industry's 'Provisions for Avoiding Disputes' of 1898 and implicitly recognised that craft trade unions, such as the Amalgamated Society of Engineers, had already established a firm foundation in the workplace and its district committees had the power to impose their own regulations. In Sweden, the national agreement reached in engineering in 1905 was, by contrast, rooted in the substantive terms and conditions and reflected the relative weakness of employers at local level and the apparent centralisation of the trade union movement. In France and Germany, where the crisis in the years immediately following the First World War was on a much larger scale, the government being involved as well as employers and trade unions. In both cases, the compromise was underwritten by compulsory rules - government and trade unions were anxious lest the large metalworking employers, who hitherto had been able to resist trade unionism with little difficulty, would revert to their previous position once the immediate crisis was over.

Only in the USA and Japan did single-employer bargaining emerge as the predominant pattern in the metalworking industries. By the time legislation was introduced requiring employers to recognise trade unions in the 1930s and 1940s respectively, the relatively large individual employers that had emerged at an early date in

*Institutions – the stuff of employment relations*

industrialisation in both countries had already exerted a profound influence on the trade union movement. In the circumstances, employers and governments did not come under strong pressure to introduce multi-employer bargaining and most employers opted for dealing with trade unions at enterprise or establishment level - largely out of the desire to maintain their internal systems of job regulation and, especially in Japan, to deny the trade unions the platform from which to push for more effective national unionism.

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In her joint work with Streeck, Thelen adds three further mechanisms: 'displacement', where change occurs because of the 'rising salience of subordinate relative to dominant institutions'; 'drift', where change happens largely because of a 'neglect of institutional maintenance'; and 'exhaustion', where institutions wither away over time. For further details, see Streeck, W. and Thelen, K. 2005. 'Introduction: Institutional change in advanced political economies', in Streeck, W. and Thelen, K. (eds) *Beyond continuity. Institutional change in advanced political economies*. Oxford: Oxford University Press. p.31.

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## 5

# **Negotiation – breathing life into the employment relationship**

## **Main tasks**

- **Highlight the role negotiation plays in employment relations**
- **Outline the main negotiating processes and differences between them**
- **Consider the changing balance between the different processes**

## **Summary**

It is negotiation that gives effect to the employment relationship. Negotiation involves far more than the management-trade union bargaining over wages and conditions with which it is popularly associated, however. In a phrase, the work organisation is ‘a system of negotiated order’. Negotiation is a collection of processes that individuals as well as groups use to define and redefine the terms of their interdependence with other parties – it is especially important where this interdependency is characterised by uncertainty and incompleteness as in the case of the employment relationship. Following Walton and McKersie, these processes embrace not just ‘fixed sum’ and ‘variable sum situations’ (‘distributive’ and ‘integrative’ bargaining), but also influencing relationships, changing attitudes and shaping preferences (‘attitudinal structuring’). A fourth process (‘intra-organisational’ bargaining) reflects the vertical as well as horizontal relationship involved in the employment relationship – the fact that the parties typically involve more than one individual and have to reach some accommodation among themselves about how

they are going to deal with the other groups. In recent years, reflecting the economic and political changes discussed in the previous chapter, the emphasis in management-trade union relations appears to be shifting from ‘distributive’ to ‘integrative bargaining’ or, to use the terms that have become more common, ‘mutual gains bargaining’, ‘partnership’ and ‘social partnership’. There is also a lot more ‘attitudinal structuring’ taking place as management simultaneously seeks to persuade employees to work harder and accept greater responsibilities for many of the benefits traditionally associated with the employment relationship such as careers and pensions. Additionally, the EU’s social dimension is drawing attention to developments such as framework agreements, coordinated bargaining, benchmarking, and the ‘open method of coordination’, all of which are designed to overcome the ‘collective action’ problems inherent in multi-level governance situations.

### **Introduction: not just a matter of collective bargaining**

The popular understanding is that negotiation is something that management and trade unions do. It seemingly defies any kind of logic, takes up an inordinate amount of time and often results in strikes or other expressions of conflict. The focus is also on the negotiation of wages or other economic dimensions of the employment relationship such as working time. Negotiation, in other words, is about bargaining. The widespread assumption, perhaps not surprisingly, is that the decline of trade union density and collective bargaining coverage confirmed in Chapter 9 means a reduced role for negotiation, along with the strikes and other forms of industrial action that seemed to accompany it.

The reality is very different, however. Negotiation is by no means restricted to collective actors, being as much a feature of employer-employee relations as it is of management-trade union ones. Negotiation is a collection of processes that all of us use to define and redefine the terms of our interdependence with other parties. It plays an especially vital role where this interdependence is characterised by uncertainty and incompleteness as in the case of the employment relationship. Nothing, it must be remembered, is automatic about the employment relationship – to put management decisions, collective

agreements and employment rights into effect involves dialogue, day-to-day consensus building and ‘give-and-take’, i.e. ‘negotiation’. True, as Chapter 6 will explain in more detail, the employment relationship involves an asymmetric or unequal power balance. But there is considerable mutual dependency – just as employees rely on the employer for their income, managers depend on employees to achieve their own goals and targets. The result is that coercion is very rarely a serious option. In the words of Muller-Jentsch, ‘any type of order, even the most repressive, is to a certain degree negotiated order. It springs from the interaction of the individual and collective actors; they produce and reproduce social order in organisations ...’. They can do so explicitly through formal negotiations or implicitly through ‘tacit agreements’ and ‘silent bargaining’ or ‘implicit negotiation’<sup>1</sup>.

For example, ‘implicit negotiation’ and or ‘tacit agreements’ are part and parcel of the notion of the ‘psychological contract’ introduced in Chapter 3. In Guest and Conway’s words, such a contract can be viewed as ‘a set of reciprocal or two-way obligations and promises between the worker and the employer’<sup>2</sup>. To paraphrase them further, in the first instance, it may involve specific levels of performance or a contribution to innovation or a willingness to share knowledge; in the second, it may cover fair pay, security of employment, equality of treatment, involvement and consultation and so on. The negotiation involved is sometimes explicit, e.g. in appraisal or performance review sessions, or in discussions about working time flexibility, but is more often ‘implicit’, taking the form of behavioural action and reaction through which the parties explore and draw the boundaries of their mutual expectations. The state of the ‘psychological contract’ is also typically measured in terms that underlay every type of negotiation: the fairness of obligations and promises, the extent of the trust that the parties have in them and the extent to which they are honoured. In short, it is not the legal contract that determines how employers, supervisors and managers behave on a day-to-day basis. Rather it is the ‘psychological contract’ that determines what the parties will, or will not do and how it will be done and this is more or less continuously being negotiated.

Similarly, negotiation is not restricted to economic issues. Indeed, it extends far beyond the ‘exchange’ and ‘contracts’ with which is popularly associated and embraces the conduct of employment

relationship, including how the ‘rules of the game’ are administered as well as made. It also involves a strong element of seeking to influence relationships, change attitudes and shape preferences. In short, it is negotiation that breathes life into the employment relationship.

The process of interaction involved in negotiation is also fundamentally important in the wider scheme of things. Crucially, it helps to explain why it is so rarely possible to establish a straightforward link between particular practices and outcomes. It is the state of the relationship that makes the critical difference. Such relationships can also take considerable time and effort to change. One reversal to original type or a case of what one party sees as a breach of trust can also confirm their underlying suspicions.

### **The main processes**

Although it was published as long ago as 1965, Walton and McKersie’s *Behavioural theory of labor negotiation* remains the most extensively quoted and widely used text for understanding the role of negotiation in employment relations, along with its significance. It is valued not just because of the terminology and ideas that it has given us, but also because it is one of the best examples of literature in the employment relations tradition. It is multi-disciplinary and multi-level in its approach. It also respects the complexity of its subject matter. Although it does not make predictions, it does generate deductive propositions that can be tested in empirical research: for example, that there are links between the type of negotiating process and the tactical behaviour of the parties; or the more knowledge a party has about the other’s position, the more likely they are to make their ‘last offer first’; and so on. In the words of the authors themselves, it is a ‘framework or a good comprehensive way to think about the complexity of negotiations’<sup>3</sup>.

The starting point is that negotiation comprises four systems of activity, each with its own function, its own internal logics, and its own identifiable set of instrumental acts or tactics. The discussion is couched mainly in the context of management-trade union negotiations, but can also be applied to management-employee relations as well as other areas of social activity such as inter-business dealings and international relations.

*Distributive ('win-lose') bargaining*

'Distributive bargaining' is the process that most people are likely to think of when negotiation is discussed. It deals with issues where one party's goals are in basic conflict with those of another - it is 'bargaining' in the strictest sense of the word. In the language of game theory, there is a fixed or 'zero sum' in which one party wins what the other loses. In more normal language, there is a cake of a given size - the bigger one party's share, the smaller the other party's.

The most obvious example is that of wages. Any improvement in wages means an increase in management's costs; the bigger the improvement, the bigger the increase in these costs. By the same token, the lower the wage increase, the less is employees' income.

'Distributive bargaining' is not just restricted to economic resources such as wages or working time, however. Issues of power and status can also be involved. In the UK, an excellent example is the long-running dispute between British Airways and its cabin crew, which began in 2009 as a result of the management's attempt to impose new working practices and manning levels. As time went by, with the basis of agreement emerging about how to handle the original problem, the focus of the dispute shifted. In an attempt to influence opinion in the run up to one of the several strike ballots that were held, the management said that it would withdraw the travel privileges of cabin crew taking strike action. Having gone ahead with its threat, management felt unable to withdraw its decision without losing face. As for the trade union, withdrawal of the ban became the main issue - especially as many members claimed that it would be difficult for them to get to and from assignments without the benefits of the arrangements. At the time of writing, the dispute remained in stalemate.

Another example is a demarcation dispute between two groups of employees over 'whose work' it is. Such disputes were notorious in the national newspaper industry in the 1960s, where virtually every group was represented by a different trade union. Indeed, the author remembers one such dispute where brothers from the then National Graphical Association and the National Society of Operative Printers and Assistants literally came to blows over who was to operate a lever on a new rotary press.

It is its fixed or 'zero sum' nature that helps to explain why

bargaining over issues of power and status can prove to be especially intractable. In the case of economic issues such as wage increases, it is usually possible to reach some kind of compromise – in the case of collective issues, the trade union does not usually get what it asked for, but management gives more than it wanted to. In disputes over discipline or demarcation, however, compromise is much more difficult to achieve. One party clearly ‘wins’ and the other ‘loses’ – the travel privileges are re-instated or not; one group or the other ends up doing the job - which means that loss of face is an important consideration.

In terms of tactics, threats and bluffs tend to abound where ‘distributive bargaining’ is involved, along with every effort to demonstrate commitment to positions. At the same time, there will be efforts to establish what the other party’s true settlement point is and attempts to convince them that it should be nearer to their own.

In the case of wages, trade unions typically ask for and management offers more/less than they will finally settle for. Indeed, moving position is seen as a key point in reasonableness. Sometimes, however, one or other parties may opt for a ‘last offer first’ approach as a way of seeking to demonstrate out-and-out commitment to their position. Or it could be because they genuinely believe that they have little or no room for movement. Either way, the strategy can go badly wrong if the party making the offer cannot convince the other that it really is the ‘last’ one.

In the case of individuals, ‘distributive bargaining’ is less obvious – partly because it is a much more private affair and partly because most employees are paid under grade structures that rarely give the individual the opportunity to negotiate a change in position. It is not unusual for there to be negotiations over starting salaries, however, even in the case of individuals in relatively junior grades. Equally, employees may threaten to tender their resignation in the hope of securing promotion and/or an increase in wages from their present employer. Former employees may also become involved in negotiations over the terms of their departure in the event of a claim for unfair dismissal.

*Integrative ('win-win') bargaining*

A second sub-process Walton and McKersie identify is 'integrative' or 'co-operative' bargaining. This recognises that there are some issues that involve objectives that are *not* in fundamental conflict with those of the other party and which therefore can be integrated to some degree. Such objectives are said to define an area of common concern – they are essentially a 'problem' to be solved, where a compromise can bring benefits to both parties. There may be intense arguments over the precise trade-offs that have all the hall marks of 'distributive bargaining'. Agreement can nonetheless bring mutual gains – the major changes in working practices and structures that senior managers seek can also mean considerable improvements in employee's terms and conditions. Rather than being fixed, to go back to the language of game theory, the sum is variable.

In practice, negotiation typically involves an element of 'integrative bargaining'. There have also been periods, however, when it is has been especially important. In the UK, the productivity bargaining under incomes policy in the 1960s and early 1970s is a very good example. More recently, for reasons which the next section will explore in more detail, there seems to have been significant shifts across the board. In the UK, this takes the form of 'partnership' agreements and in the USA 'mutual gains bargaining'. In mainland Europe, much the same ground has been covered in 'pacts for employment and competitiveness'. Also in many EU countries, at the cross-sector level, there has been a spate of so-called 'social pacts', involving governments as well as the peak employers' organisations and trade unions.

Like its 'distributive' counterpart, 'integrative bargaining' is not something that is restricted to collective actors. Arguably, it is the dominant form of negotiation so far as individual employees are concerned, becoming more and more important as the need for greater flexibility intensifies. As Chapter 3 emphasised, in principle, the employment relationship bestows residual rights of control of the employer. In practice, there develops what Marsden calls a 'zone of acceptance' within which employees agree to let management direct their labour<sup>4</sup>. This may relate to the range of tasks that employees are willing to undertake at management's direction, but it may also include the priority to be accorded to different types of work, along

with a willingness to vary working time according to management's requirements. From time to time, these limits need to be updated, and given that the employment relationship is built on exchange, the logical way to change terms is also by agreement, which involves a form of 'tacit' or 'implicit' negotiation.

Marsden gives two detailed examples involving performance management in the British public services that help to illustrate the point<sup>5</sup>. The first concerns teachers and the priorities accorded to teaching test and non-test elements of their subjects. In recent years a range of government initiatives has increased the pressure on schools, and on their management, to do more to ensure good exam results. In response to 'league table' pressures, many schools have directed more resources towards subjects covered by tests, the increased academic content of courses and the teaching of test-taking skills. Almost invariably, such a change of priorities involved the active agreement of classroom teachers. School management recognised that it was unlikely to succeed in imposing such changes top-down: it was unable to easily monitor the breakdown of time between classroom activities: it lacked knowledge of the subject matter and relevant teaching methods, and could not establish a clear relationship between teachers' efforts and exam outcomes. For all these reasons, new objectives unacceptable to teachers were likely to remain a fiction in the classroom.

The second example involves multi-skilled care teams in a National Health Service (NHS) trust hospital providing general and acute care services. A key obstacle to more flexible work patterns was that different categories of staff had their 'zones of acceptance' drawn in different ways and supported by different principles. Thus, some categories, such as ward nurses, worked shifts, whereas others, such as physiotherapists, worked Monday to Friday, with premium payments for working overtime and unsocial hours. The solution to the problem involved scrapping payment of special allowances for unsocial hours, in return for adjustments to basic pay and the introduction of a performance bonus whose absolute size was determined by how well the hospital achieved its objectives, and which was payable to satisfactory and good performers. Accompanying the new pay structure was an individual performance appraisal and goal setting

system, involving the clarification of work roles, setting goals, planning personal development and regular reviewing. Managers and staff were encouraged to discuss, on a one-to-one basis, the purpose of the job, its main activities, responsibilities, resources and so on, and whether the job description needed revision. They were also encouraged to ‘jointly develop, goals, tasks or objectives’ which facilitated achievement of the job’s purpose, along with a personal development plan.

Different strategies and tactics will be found in ‘integrative’ as opposed to ‘distributive bargaining’. There are likely to be less threats and bluffs. Instead, there will much more focus of the ordering of the agenda and the items that people are prepared to put on the table. There will also be greater concern to establish what they have in common and to avoid putting one another in a seemingly ‘win-lose’ situation. Often, too, a number of mechanisms will be used to help the central negotiators to do this, including joint working parties, third-party facilitation and continuous review of progress.

### *‘Attitudinal structuring’*

‘Distributive’ and ‘integrative bargaining’ can be involved in either the one-off negotiation such as the labour services agreement or on-going ones as in the case of the employment relationship. ‘Attitudinal structuring’ is the term predominately reserved for the on-going relationship that has a past and a future. The term is something of a mouthful, but has the virtue of saying what it means. It reminds us that negotiation is not just about exchange or, indeed, making decisions. It is also about influencing and shaping preferences. This process is therefore critically important in the employment relationship for all the features highlighted in Chapter 3 – it is on-going or continuous; it is incomplete; and it brings numerous opportunities for the parties to seek to change the relationship to their advantage.

In face-to-face negotiations involving either ‘distributive’ or ‘integrative bargaining’, ‘attitudinal structuring’ is used to confirm strength of position. In his Fleet Street days, the author well remembers that, whenever there was a dispute involving composers, almost invariably the London Branch of the then National Graphical Association would include a representative from *The Financial Times* on their negotiating team dealing with problems in other newspaper

offices. At the time, *The Financial Times* was by far and away the highest paying office because of the volume of share prices that had to be set under the London Scale of Prices governing type-setting charges. As if on cue, this representative would invariably express astonishment that so much time was being taken up in dealing with such a trivial issue. He and his colleagues had settled this with their management long ago. The tactic was not only designed to unsettle the management team, but also to embolden the Chapel representative colleagues from the newspaper office where the dispute was taking place.

‘Attitudinal structuring’ can also serve as a substitute for the face-to-face processes of ‘distributive’ and ‘integrative’ bargaining. Management-trade union relations in France are a good illustration. Historically, France was held to be the exception among industrialised economies in that formal collective agreements between trade unions and employers’ organisations were rare and seemingly lasted for long periods of time without change. This led commentators to draw the conclusion that the parties preferred the legal enactment route to that of collective bargaining. Case study research showed that this view was too simplistic, however. A process of ‘arms-length bargaining’<sup>6</sup> was going on that performed many of the functions of the more traditional forms. Agreement may have been rare, but the parties were regularly seeking to influence one another’s position. In the case of wages, for example, managers would very often try to estimate what would keep the peace and make a formal statement to that effect. The trade union would not formally accept. But the threatened strike would not take place. If management underestimated what was necessary, however, or if the *militants* had been able to raise expectations, there might be industrial action. Depending on circumstances, this might be followed by a management decision to increase the size of the wage increase it was going to introduce. In this way, in other words, managers could maintain the appearance of not conceding managerial prerogative, while the *militants* could argue that they had not recognised management’s right to manage by actually agreeing to anything<sup>7</sup>.

Arguably, ‘attitudinal structuring’ is most prominent in the case of the relationship between management and individual employees and is

an integral feature of most communications activity. In many cases, the aim of managers is not just to give employees information. Rather it is to structure their attitudes and shape their preferences. It has long been accepted that managers have been much more prone to share the bad rather than the good news in the hope and expectation of dampening expectations about a wage increase or other improvements in terms and conditions. In recent years, however, for reasons explored in more detail in the next section, the boundary between communications and what might be described as ‘marketing’ has become increasingly blurred. In many organisations the aim is now quite openly to ‘win hearts and minds’, above all where employees are required to interact with customers or clients - programmes of ‘total quality management’ (TQM), ‘customer care’ and ‘management by customers’ (i.e. customer surveys) have proliferated, along with a series of initiatives targeting individual performance.

Arguably, in many instances promotion of the ‘psychological contract’ is tantamount to ‘attitudinal structuring’. To expand on the discussion in Chapter 3, there are two main traditions of ‘psychological contract’ thinking. In the older tradition, which is mostly followed in the UK, the ‘psychological contract’ is seen as the perceptions of the two parties of their mutual obligations<sup>8</sup>. In the more recent one, which is associated with Rousseau in the USA, the emphasis is very much on individual employees and their beliefs<sup>9</sup>. Organisations are encouraged to deal with the problem of ‘drift’ in employee attitudes and induce change by communicating with their employees in order to revise their beliefs and expectations concerning the ‘deal’ implicit in the psychological contract. Regrettably, however, the term ‘negotiation’ is rarely mentioned, let alone ‘attitudinal structuring’. As Marsden points out, ‘psychological contract’ researchers appear to have difficulty in finding a place for negotiation in their analysis – partly, he suggests, because they address a largely management audience and partly because they treat the ‘psychological contract’ as a set of beliefs or expectations, rather than focusing on the nature of the transaction itself<sup>10</sup>. The ‘negotiation’ of the ‘psychological contract’, say defenders<sup>11</sup>, raises theoretical difficulties because it is not clear how one can negotiate over changes in beliefs. The answer is very simple: ‘attitudinal structuring’ is a form of negotiation.

*Intra-organisational bargaining*

The fourth process to be considered draws attention to something that very rarely receives the attention it deserves in discussions of negotiation - the importance of the 'collective action' problem and the behaviour involved in resolving it. Negotiation is seen largely in terms of a 'horizontal relationship' – A tries to reach some accommodation with B and vice versa. In the typical situation, however, things are more complicated: there is 'vertical' as well as 'horizontal' relationship. A and/or B usually involve more than one individual and the groups comprising A and B have to reach some accommodation among themselves about how they are going to deal with the issues.

The greater the complexity of the issue, the greater is the collective action problem. This is because, in practice, wherever groups of people are involved, there are usually quite fundamental differences of opinion or position to be found between the members. Moreover, this is true of even the most apparently homogenous groups such as 'management'. For example, there may be differences of opinion between the different levels of line management about how to handle an issue. Or the differences may be of position and functionally-based. For example, the line manager driven by operational needs may say or do things on the spur of the moment, whereas the HR manager may be more concerned to maintain consistency of behaviour.

In management-trade union negotiations, the parties usually spend a considerable amount of time and effort before any face-to-face negotiation in trying to come to a common position, while simultaneously trying to find out how whether there are any differences of opinion on the other side that can be exploited. In the face-to-face negotiations themselves, everything will be done to avoid differences emerging. Each party may involve several members, but only one member is likely to do the talking - if others wish to make a point, they will be expected to pass or note take great care to resolve their differences or hide them from the other party. Or members may be given very clear cut roles. In the author's Fleet Street days, the Chapels very often designated a 'hatchet man' whose role was to disrupt the management and exaggerate the strength of feeling of Chapel members – the Father of the Chapel (shop steward) was being

extremely reasonable and moderate in his demands and management would do well to support him etc etc.

### **Negotiation in practice: a changing balance**

The balance between the different negotiating processes, like so much else in employment relations, is heavily influenced by context. Recent years have seen a considerable shift from ‘distributive’ to ‘integrative bargaining’. ‘Attitudinal structuring’ also figures much more prominently. Similarly, there is growing recognition of the problems that ‘intra-organisational bargaining’ gives rise to, which is reflected in the coming to prominence of forms of so-called ‘soft regulation’.

#### *From ‘distributive’ to ‘integrative bargaining’?*

As the previous section suggested, on the face of it, there has been a shift in the nature of management-trade union negotiations, with a wider range of topics on the table and management very often taking the initiative in raising them – the negotiation of ‘pacts for employment and competitiveness’ in most EU members countries in the second half of the 1990s is an example. Or, in the case of national ‘social pacts’, it has been governments that have most often taken the initiative. In both cases, a strong element of problem solving and ‘quid pro quo’ bargaining characterises the process of negotiating. Many of the mechanisms of ‘integrative bargaining’ listed earlier are also to be found, i.e. joint working parties, third-party facilitation and continuous review of progress.

Table 5.1 gives an idea of the issues that were typically involved in the negotiation of ‘pacts for employment and competitiveness’. More recently, similar issues have loomed large in the light of the global financial crisis. Thus there have been major restructuring exercises involving companies such as Daimler (Germany), Škoda Auto (Czech Republic), Hewlett-Packard (Spain), Axa (Ireland), Electrolux (Italy), Volvo (Sweden), and JaguarLand Rover and JCB (UK)<sup>12</sup>. Typically, redundancies and skill loss have been avoided. In return, however, there have been pay freezes and short-time working, leading sceptics to argue that what is involved simply boils down to ‘concession bargaining’.

In the case of cross-sector ‘social pacts’, the scope has been similarly broad. Most have involved a form of ‘soft’ incomes policy with wages guidelines rather than explicit and binding figures and the main concern is with competitiveness, helping to explain why a major feature is external benchmarking, more of which below. Wages, though, are far from the only topic covered: tax, social security and education policy strongly feature, along with active employment policies, the overall aim being to reduce non-wage costs in the form of pension and social security charges.

There are two main considerations that lie behind the shift in emphasis from ‘distributive’ to ‘integrative bargaining’, which are discussed in more detail in Chapters 8 and 9. The first is the increasing competitive pressures on management above all in manufacturing. In part, this reflects the rise of Japanese/Chinese manufacturers; the introduction of the Single European Market – which encouraged a considerable restructuring as companies looked to service one regional, rather than a series of national, markets as well as the opening up of markets and privatisation; and the collapse of the former USSR and the incorporation of Poland, Hungary etc into the EU – which has offered alternative locations for investment close by. In part, it also results from the liberalisation and deregulation of capital markets that have much greater pressure on senior managers to maximise returns to shareholders. Put simply, as Chapter 9 argues in greater detail, there are much smaller ‘rents’ to share with trade unions. Indeed, the only way that managements have been able to satisfy trade union demands for annual wage increase in line with inflation is to absorb increase in pay by offsetting improvements in productivity and performance.

The other main consideration has been the change in macro-economic policy and, in particular, the adoption of ‘non-accommodating’ monetary regimes targeting relatively low rates of inflation with corresponding borrowing rates. Thus, the coming of European Monetary Union meant that governments were not only obliged to adapt their policies, helping to explain the incidence of ‘social pacts’, but it also meant the spread across Europe of the German *Bundesbank's* regime. The intention and effect was not only to help bring down the rate of inflation – a major consideration in

distributive bargaining over pay – but also to make pay bargainers recognise that attempts to reach above-inflation settlements would now result in unemployment. In practice, trade unions have had to adjust the point of resistance to the prevailing level of inflation in the attempt to maintain living standards, while employers have done everything they can to minimise the impact on unit costs by insisting on major changes in working practices. The effect has been something of a convergence of pay settlements around the level of inflation (a 'European going rate'<sup>13</sup>) which has taken some of the meaning out of national sector bargaining, at the same time as encouraging further decentralisation to secure the off-setting productivity increases.

The jury remains out on whether this shift is leading to a fundamental change in relationships between the parties as depicted in Table 5.2. Intuitively, it is appealing to think that this is the case. Arguably, too, is not completely unrealistic – most issues are 'integrative' rather than 'distributive'. Yet embedding 'integrative bargaining' is far from easy. The parties may be able to come together in a crisis situation, especially when management needs the legitimisation of employees and their representatives for very difficult decisions such as job cuts and major changes in terms and condition. Transferring the spirit and practice to more 'normal' times, however, is very difficult. This is above all in times of rapid change, when managers worry that 'consultation' and 'negotiation' will slow down decision making and trade union officials are anxious to avoid exposing themselves to charges of 'concession bargaining'.

Tradition also dies hard. In UK, for example, the then deputy Director General of the CIPD is quoted as saying that, 'The British get dictation and they get negotiation, but they don't get consultation'<sup>14</sup>. Arguably, a major consideration is the structure of collective bargaining for the reasons discussed in Chapter 2. In many EU countries, multi-employer bargaining at sector level tends to deal with 'distributive' matters, leaving discussion at the level of works council or its equivalent to deal with 'integrative' ones. The negotiation of 'social pacts' at national level has also set a favourable context for dialogue and deliberation. In the UK and the USA, by contrast, not only does the lack of a dual structure mean that it is extremely difficult to separate 'distribution' from 'integration', but there are also few examples of national level concertation to draw on. This means

### *Negotiation – breathing life into the employment relationship*

that managers and employee representatives have little opportunity to develop the social skills that are involved in high performance working. Perhaps inevitably the behaviours of ‘distributive bargaining’ tend to dominate, helping to account for and perpetuate a tradition of adversarial relations. Equally, the focus is on short-term ‘effort bargaining’ rather than building trust and long-term relationships.

#### *An increasing resort to attitudinal structuring*

Arguably, although ever present in negotiation, ‘attitudinal structuring’ has become much more extensive in recent years both in terms of its coverage of issues and organisations. The nature and extent is more difficult to pin down than the increase in ‘integrative bargaining’, but there has certainly been an increase in communications activity, which is the key instrument. According to the UK’s WERS, for example, mechanisms of so-called ‘direct voice’ have increased considerably: the number of workplaces using team briefings, for example, more than doubled between 1984 and 2004<sup>15</sup>. In many respects, the development is the mirror image of the shift from ‘distributive’ to ‘integrative bargaining’ and is hardly surprising. Intensifying competition means greater pressure on performance, which translates into greater need for commitment. This is above all true of the service sector, where ‘appropriate’ employee attitudes have become more and more important. As Chapter 3 indicated, other important considerations have been the pressures to change expectations about some of the long-standing features of the employment relationship – for example, that there has to be a change in the balance of responsibility between employer and employees so far as careers and pensions are concerned.

There are also been some eminently practical considerations involved. In countries where there is no statutory provision for employee works councils, such as the UK and USA, the decline of trade unions and collective bargaining means that there is no obvious employee representatives with whom to talk. If management wants to communicate, it has to do so with individual employees. For managers, communications is also the easy option, making far fewer demands in terms of individual social skills than consultation or face-

## EMPLOYMENT RELATIONS MATTERS

to-face bargaining. It means, too, that they keep control of the process; there is little or no exchange explicitly involved – certainly nothing that threatens existing structures and ways of doing things – and the onus of change is shifted onto employees; and there are few opportunities for employees to question or challenge the management position. Developments in information technology have also increased the number of ‘arms-length’ means of communications available to managers such as email, websites and social networks.

Arguably, however, although ‘attitudinal structuring’ may be much less demanding of managers, a considerable price is paid for relying exclusively on it. In the absence of opportunities for serious employee ‘voice’, the danger is that managers do not get to hear about how things really are - if they do not have representatives to speak for them, employees are likely to be reluctant to express their true opinions directly for fear that their comments might be held against them. In the words of the final report of the CBI-TUC’s 2002 Productivity Challenge Best Practice Working Group,

Involving individual employees or teams in decisions that affect the day to day organisation of their work helps create a culture of autonomy and responsibility. And systems for encouraging employee feedback and suggestions are key to innovation and building commitment to continuous improvement.

Collective voice is important in building a climate of trust where individual employees are confident that their contribution will be valued. Equally valuable is its role in helping to identify shared objectives and resolve conflict. The involvement of employees’ representatives can create the sense of mutuality that is essential for the sustainability of new working practices – the belief that both the employer and workers are reaping real benefits from improvements in work organisation.

Excessive reliance on ‘attitudinal structuring’ is also exposing management to criticisms of manipulation and unethical behaviour. This is above all true of situations where management attempts to manage the emotions of employees. As one commentator asks, 'Is the management of organisational and more importantly employee value systems a step into the realm of manipulation potentially threatening employees' right to privacy and dignity?'<sup>16</sup>

## *Negotiation – breathing life into the employment relationship*

This helps to account for the scepticism with which the employment relations community regards the concept of the ‘psychological contract’. The ‘psychological contract’ can be a useful concept when, as in the case of most of the UK literature, the older tradition is followed of seeing it as the perceptions of two parties of their mutual obligations. In the words of Cullinane and Dundon, the notion has ‘potential merit as a construct capable of correcting some of the limitations of the legalistic view of the employment relationship. It also has the potential to shed light on the often neglected and more uneven micro and socio-cognitive processes that take place between employee and employer’<sup>17</sup>. There are considerable doubts about its role, however, when it is seen exclusively in terms of the employee as it tends to be in recent US literature. It may be logically correct to argue that ‘organisations do not have beliefs’<sup>18</sup>. If the ‘psychological contract’ is reduced to beliefs held by employees, however, it must raise questions about the validity of the very notion of a contract<sup>19</sup>. Even if it may not be the intention, it is also an open invitation to managers to ‘step into the realm of manipulation’. The following conclusion may seem harsh, but is widely shared: ‘In its present form, it [the ‘psychological contract’] symbolises an ideologically biased formula designed for a particular managerialist interpretation of contemporary work and employment’<sup>20</sup>.

### *Coping with the collective action problem - developments in ‘soft regulation’*

A number of other long-established features of negotiation have come to prominence in recent years largely as a result of EU developments. As well as the tendency towards ‘framework’ directives and agreements, there is ‘co-ordinated bargaining’, ‘benchmarking’ and the EU’s ‘open method of coordination’ (OMC). In part, these developments are an institutional expression of the processes of ‘isomorphism’ discussed in Chapter 4 and reflect the tendency for actors faced with common constraints to adopt similar solutions, that European integration is encouraging – ‘Europe is learning from Europe’ in Teague’s words<sup>21</sup>. In greater part, however, they are to be explained in terms of the nature of the ‘intra-organisational bargaining’ or collective action problem policy makers and

practitioners are faced with in a multi-level governance situation. At EU levels in particular, given the problems of arriving at agreements that resonate with the principle of 'subsidiarity' (i.e. dealing with issues at the lowest feasible level), such forms of so-called 'soft regulation' have the inestimable advantage of helping to resolve both the horizontal and vertical dimensions of the collective action or 'intra-organisational bargaining' problem.

Take, for example, 'framework agreements'. These make it possible for the principals to set a sense of direction and yet to avoid failures to agree over the details that often bedevil negotiations on the horizontal dimension. At the same time, by delegating responsibilities to representatives at lower levels to tailor solutions to their immediate situation, it helps to relieve the collective action problem on the vertical dimension. Also, the degree of 'softness' can vary, with significant implications for effectiveness of implementation. There is considerable difference between a 'framework agreement' elaborating a set of principles but having no further consequences for representatives at local levels and one whose express intention is to 'incite' negotiations at these levels and which also establishes mechanisms to monitor implementation. The contrast is even greater with a 'framework agreement' establishing a set of principles or minimum standards, which are binding on the parties at other levels, but within which these parties have scope to fashion their own solutions. In effect, the last outcome combines a 'hard' with a 'soft' dimension<sup>22</sup>.

Another development has been 'co-ordinated bargaining', in which parallel sets of negotiators attempt to achieve the same or related outcome in separate negotiations. There are two main types. The first, the unilateral form, is where one or other of the parties is opposed to collective bargaining at that level and/or believes it unnecessary. The second, the joint form, is where the parties develop an understanding, which may be implicit rather than explicit, that co-ordinated bargaining is likely to open up options not available under established collective bargaining arrangements.

So far, 'coordinated bargaining' at the EU level has been largely unilateral, the European Metalworking Federation's (EMF) initiative being the longest-established and most developed. It started in the mid-1990s, with the convening of its first collective bargaining

conference in 1993 and the separate and successful development of a common template for negotiations establishing European Works Councils with a series of multinational companies. Subsequently EMF adopted a bargaining co-ordination rule for wage negotiations in 1998, specifying that settlements should be equivalent to the cost of living plus a balanced share of economy-wide productivity gains, and a working time charter which lays down a minimum standard of 1750 hours annual normal working time and an annual maximum of 100 overtime hours. More recently, it has established minimum standards on the scope and quality of training aimed at realizing life-long learning. Its long-standing collective bargaining committee has been invigorated by the creation of a smaller working group which has driven forward these initiatives and, in tandem, EMF has established a comprehensive electronic database of collective bargaining information, aimed at both diffusing information across affiliates and monitoring outcomes of negotiations. Important too have been the nurturing of ‘reflexive mechanisms’ such as peer review and an annual summer school through which national negotiators become integrated into the co-ordination process.

As Table 5.3 suggests, the rise of ‘benchmarking’ from management tool to regulatory instrument has been one of the most striking recent developments, coming to occupy a place at the heart of the EU’s approach to co-ordinating economic and social policy within and across the member states. As in the case of ‘coordinated bargaining’ and ‘framework agreements’, ‘benchmarking’ helps to deal with both the ‘horizontal’ and ‘vertical’ dimensions of the EU’s collective action problem. A broad direction can be set, minimizing the scope for disagreement over detail on the horizontal dimension. At the same time, deference to the principle of ‘subsidiarity’ helps to relieve the collective action problem on the vertical dimension. Arguably, ‘benchmarking’ and the OMC have a ‘logic of appropriateness’ promising greater democratic legitimacy *and* effectiveness in policy development and implementation<sup>23</sup>. The centre adopts the role of ‘policy entrepreneur’, but consults and involves the member states, ‘social partners’ and other interested parties in decisions on strategy. Involvement of national actors means that interventions may be more appropriate, and therefore more likely to

be put into practice. Rather than being tied down with ‘institutional harmonisation’, EU policy-makers can take a problem-solving approach with a longer-term focus that is flexible enough to adapt to changing circumstances and extend itself to new areas. The iterative cycle of ‘benchmarking’ also means that the policy process becomes less opaque (and therefore more legitimate) with the elaboration of clear goals and targets, the identification of best practice and member state and social partner scrutiny. ‘Benchmarking’ helps ensure the value of the OMC as a coherent policy mode, and one that acknowledges democratic principles of voluntarism and subsidiarity.

Looking to the future, perhaps one of the most intriguing speculations is about the implications of the development of the EU’s multi-level governance arrangements. The coming of the Single European Market and the single currency have encouraged a number of contradictory developments: decentralisation in the form of company and workplace bargaining as the parties seek to grapple with the implications of restructuring; greater centralisation in the form of ‘social pacts’ at the cross-sector level as Governments to seek national level understandings with the ‘social partners’ on wage moderation, greater labour market flexibility and reform of social protection systems; and greater cross-national activity – in particular, at the cross sector and multinational company levels. In principle, there need not be a conflict between the different levels – indeed, coordination is necessary to avoid a process of ‘regime competition’, where one country competes with another. Even so, time and energy are limited resources. The parties are increasingly confronted with a variety of options along with the so-called ‘joint decision trap’<sup>24</sup> – the more successful activity at one level is in handling the situation, the more difficult it is to involve others.

**Figure 5.1 ‘Pacts for employment and competitiveness’<sup>25</sup>**

In the second half of the 1990s, there was a major wave across Europe of company-level negotiations dealing with restructuring, so-called ‘pacts for employment and competitiveness’ (PECs). Although there was no typical PEC, most had two main objectives: to minimise reductions, preserve and/or stabilise employment; and to reduce the organisation’s costs and/or improve its ability to adapt, thereby contributing to future conditions for economic growth and job creation. Three main ideal-types could be identified reflecting the balance of emphasis between short term cost reductions to safeguard jobs and measures to improve the flexibility and adaptability of the organisation in the medium-term. In the first, agreements are essentially concerned with the ‘survival’ of the business or some of its operations. In the second, agreements are intended to aid the process of ‘retrenchment’ – the situation was not so much one of survival, but of slimming down in the light of changing market conditions. In the third, agreements were designed to help with the ‘adaptation’ of the business to deal with new situations, for example under market deregulation. The contents included the following:

- guarantees of employment and/or no compulsory redundancy
- investment for particular establishments
- transformation of precarious into more stable jobs.
- additional employment for groups such as the young and unemployed
- the relocation of the workforce within the company
- the introduction of ‘work foundations’ to improve the employment prospects of redundant workers
  
- reduction in pay levels and associated benefits,
- lower starter rates for new employees
- commitments to moderate pay demands
- increases linked to indicators such as prices, productivity, exchange rates.
- share ownership
  
- temporary or long-term reduction in the working week
- greater variability in working hours without overtime premium

## EMPLOYMENT RELATIONS MATTERS

- the increased use of part-time work
- extension of operating hours (e.g. weekend work)
- conditions for using fixed-term contracts, temporary work and outsourcing
- new forms of work organisation such as team work
- training and development

**Figure 5.2 Changing emphases in employment relations<sup>26</sup>**

**The 'old' employment relations**

**The 'new' employment relations**

*Key assumptions*

- stability
- conflict
- social justice
- standardisation
- a predominant level of activity
- centralisation

- change
- co-operation
- continuous improvement
- diversity
- multiple levels of activity
- decentralisation ('subsidiarity')

*Subject matter*

- claims/grievances
- rights/obligations
- pay and conditions
- inputs

- information/
- standards/targets
- employment and competitiveness
- outputs

*Processes*

- distributive bargaining
- agreement making
- law making
- vertical integration
- enforcement/sanctions

- integrative bargaining
- social dialogue
- benchmarking/target setting
- horizontal co-ordination
- monitoring/learning

**Table 5.3 All benchmarkers now<sup>27</sup>**

Benchmarking started life as a management tool to increase competitive performance. There are three main types. First is ‘performance benchmarking’, involving quantitative comparisons of input and/or output measures. Second is ‘process benchmarking’, covering detailed scrutiny of the efficiency of particular business processes and activities, plus arrangements such as quality standards accreditation. Third is ‘strategic benchmarking’, which involves comparing the driving forces behind successful organisations, including leadership and the management of change.

Since the mid-1990s, however, it is as a regulatory tool across a range of EU policy fields that benchmarking has rapidly acquired prominence, leading one European Commission President (Jacques Santer) to suggest that ‘We are all benchmarkers now’<sup>28</sup>. As well as the Community institutions and member states, trade unions too have embraced benchmarking as a means of underpinning their cross-border bargaining co-ordination initiatives – the European Metalworking Federation is an example. Two main phases may be identified. Until the late 1990s, benchmarking was still largely seen as a management tool that policy-makers could utilise to promote improved competitiveness on the part of individual companies. By the turn of the decade it had become something more ambitious: a central plank of national policy development and implementation across a range of strategic activities. According to its former Secretary General, it was the ‘European Round Table’, which groups together major multinational companies, that has to be credited with its becoming a regulatory mechanism for the EU as a whole. Anxious to avoid further social regulation, and yet keep labour market reform on the agenda, it enthusiastically promoted the idea of benchmarking to policy makers as ‘more than simply number-crunching’. ‘It was a communication tool of enormous value’ which, crucially, ‘would help them work together towards common goals without jeopardising their freedom to take their own decisions in the light of their own circumstances’<sup>29</sup>.

As an EU policy tool, benchmarking began to gather momentum with the approach of EMU, involving the setting of common objectives, the preparation of national action plans and peer group

*Negotiation – breathing life into the employment relationship*

review. The 1994 Essen European Council asked member states to establish employment programmes and to report annually to the Commission on their implementation. The 1997 Amsterdam Treaty institutionalised this procedure, thereby giving benchmarking a Treaty basis: Article 118 stipulates that the Council can ‘encourage the member states to adopt initiatives aimed at improving knowledge, developing exchange of information and best practice, promoting innovative approaches and evaluating experiences in order to combat social exclusion’. Subsequently, the 2000 Lisbon Summit explicitly confirmed the ‘Open Method of Coordination’ as a governance method.

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## 6

### **Power – a matter of prepositions**

#### **Main tasks**

- **Highlight the different types and ‘faces’ of power and their relevance in employment relations**
- **Emphasise the asymmetrical distribution of power in the employment relationship and its implications**
- **Discuss the why and wherefore of the tension between ‘power to’ and ‘power over’**

#### **Summary**

‘Politics’ and ‘the political’ are said to be concerned with ‘the distribution, exercise and consequences of power’. The same could be said of employment relations. Two main types of power may be identified. The first, ‘power to’, is very positive – it is about the capacity or ability to get things done. In the most basic of senses, ‘productive’ and ‘transformative’ power are ever present in work organisations – no product or service would be provided if it was not. The second, power ‘over’ is about domination - for example, the ability of one party to get another to do something they would not otherwise do or to punish/discipline them for behaviour that the party thinks is inappropriate. This can be negative - it is more like a ‘zero sum’ game, where one party loses what the other wins. In this case, attention focuses on two main aspects. One, following Lukes, is the different ‘faces’ of power. Power is not just about decision making, but also setting the agenda and shaping preference. It therefore harks back to the ‘attitudinal structuring’ that featured in the previous chapter. The other is the asymmetry or inequality of power. Put simply, subordination is a design feature of the employment

relationship – the exercise of the employers’ residual control rights puts managers in a power ‘over’ relationship with employees. Also the two parties to the employment relationship, while nominally equal, have very different resources at their disposal: the employee is an individual who has to work to make a living; the employer is typically a corporation with substantial time and money at its disposal. Such is the nature of the employment relationship, both cooperative and conflictual, that the two dimensions of power are in more or less continuous tension. Attempts to shift the balance from the one to the other range from changes in management style, through semi-autonomous team working to different forms of employee ‘voice’ and ‘management by agreement’. One idea that seems to survive – it appeared on the agendas of both main political parties in the UK’s general election of 2010 – is that of worker cooperatives or labour-managed firms. Successful examples, albeit very different, include the John Lewis Partnership in the UK and the Mondragon Corporation in Spain’s Basque country. Arguably, the main reason why worker cooperatives are not more widespread is that they would involve a fundamental re-distribution of power from capital in favour of labour.

### **Introduction**

In the words of the author of a major textbook dealing with political analysis, ‘politics’ and ‘the political’ are concerned with ‘the distribution, exercise and consequences of power’<sup>1</sup>. The same could be said of employment relations. Also as in politics, serious efforts are being made to operationalise the concept of power and so begin to answer some of the criticisms of its use – for example, that power is ‘poorly defined’ and is ‘invoked to explain virtually anything’<sup>2</sup>. Thus, power is a concept that is used in two main ways, both of which are critically important. The first sees power as the capacity to get things done – power ‘to’ is a resource that is capable of advancing common goals; it is a ‘positive sum’ game. The second equates power with domination or power ‘over’ – the ability of one party to get another to do something they would not otherwise do or to punish/discipline them for behaviour that the party thinks is inappropriate. Power ‘over’ can therefore be a largely ‘negative sum’ game. Furthermore, power

‘over’ is seen as embracing not just decision making, but also the more covert forms of the exercise of power such as the ability to set the agenda and, even more fundamentally, to shape people’s preferences, recalling the discussion of ‘attitudinal structuring’ in Chapter 5. There is more or less continuous tension between the main types of power: the way power ‘over’ is exercised in many organisations makes it difficult to maximise the benefits of power ‘to’.

### **Power 'to'**

The first main type of use of power in employment relations – ‘power to’ - is very positive and is integral to the role of organisations introduced in Chapter 1. Power is seen as a resource that can be ‘productive, transformative, authoritative and compatible with dignity’<sup>3</sup> In the most basic of senses, ‘productive’ and ‘transformative’ power are ever present in work organisations – no product or service would be provided if it was not. ‘Enterprise’, after all, is one of the synonyms for ‘company’. The Schumpeter column in *The Economist* expands on the point like this in encouraging business leaders to do more to make the case for what they do:

... business is a remarkable exercise in cooperation. For all the talk of competition ‘red in tooth and claw’, companies in fact depend on persuading large numbers of people – workers and bosses, shareholders and suppliers – to work together to a common end. This involves getting lots of strangers to trust one another. It also increasingly involves stretching that trust across borders and cultures. Apple’s iPod is not just a miracle of design. It is also a miracle of cooperation, teaming Californian designers with Chinese manufacturers and salespeople in all corners of the earth. It is worth remembering that the word “company” is derived from the Latin words ‘cum’ and ‘pane’ – meaning ‘breaking bread together.

Another rejoinder is that business is an exercise in creativity. Business people do not just invent clever products that solve nagging problems, from phones that can link fishermen in India with nearby markets to devices that can provide insulin to

diabetics without painful injections. They also create organisations that manufacture these products and distribute them about the world. Nandan Nilekani, one of the founders of Infosys, put the case for business as well as anyone when he said that the computer-services giant's greatest achievement was not its \$2 billion in annual revenue but the fact that it had taught his fellow Indians to 'redefine the possible'<sup>4</sup>.

In the language of the resource-based view introduced in Chapter 3, work organisations are 'capability structures'<sup>5</sup>. Important here is the recognition that an organisation's success/failure depends not so much on thinking in terms of more traditional 'outside-in' assessments of market threats and opportunities leading to externally focused strategic responses or 'positioning'. Rather the approach is 'inside-out' focusing on the sources of internal strengths and weakness of the organisation, i.e. the unique or particular skills and ability 'sets', capabilities' or competences that individuals in the organisation have and that give it a measure of competitive uniqueness<sup>6</sup>. Power is not just something that is possessed by individuals or groups, however. Power also resides in structures embedded in continuing social relationships that enable groups to contribute.

Both the 'hardware' and the 'software' of the organisation are involved. In the first instance, they include the structures and systems of planning, controlling etc that figure prominently in discussions of what management is about; job design, the grouping of jobs into activities and the structures used to co-ordinate these activities; personnel policies and practices including the organisation's systems of education, rewards and incentives; and technical systems such as databases and software programmes.

It is this kind of thinking that helps to explain the increasing emphasis on bundles of personnel practices that featured in Chapter 2. As was explained there, the idea is that it is not so much the individual 'best practice' elements in the standard prescriptive textbooks that are important. Rather what makes the difference is the extent to which these elements are 'best fit', i.e. are complementary as well as supportive of and supported by the business strategy. Thus, team-working and problem-solving groups are likely to have a positive

effect on labour productivity when combined with contingent pay designed to enhance employee motivation and commitment. But such ‘high performance work systems’ are unlikely to be effective where low cost is to the priority of business strategy. Rather they go with high quality products and services.

The ‘software’ of organisations is seen as being made up of the prevailing norms and attitudes such as the ‘passionate beliefs associated with various kinds of technological knowledge’<sup>7</sup>. For many commentators, this is where the notion of the ‘learning organisation’ fits in, i.e. the idea of the organisation as an ‘active learning agency continually combining and recombining elements in its external and internal environment in order to develop the distinctive capacities that will enable it to survive’<sup>8</sup>. In such organisations, senior managers recognise that ‘learning’ is not just something that individuals do. It is what organisations have to do in order to continuously improve. They therefore put ‘organisational learning’ centre stage and make it the key principle for organizing business strategy and developing competitive advantage. Managing the processes involved, sometimes known as ‘knowledge management’, also looms large, the understandable implication being that acquiring these capabilities is not something that just ‘happens’.

Interestingly in the light of the discussion about the ‘cognitive’ dimension of institutions in Chapter 4, the NHS National Library for Health suggests that the ‘ultimate aim’ of knowledge management is ‘institutionalisation’.

It is useful to bear in mind that success in knowledge management does not involve building up a big new department or a whole network of people with ‘knowledge’ in their job title. You may need to do these things to some degree in the medium-term. However the ultimate aim is for knowledge management to be ‘fully’ institutionalised’. Or in other words, so embedded in the way your organisation does things, so intrinsic in people’s day-to-day ways of working, that nobody even talks about knowledge management any more – they just do it<sup>9</sup>.

## EMPLOYMENT RELATIONS MATTERS

For employees, involvement in the activities of such organisations can bring rewards not only in terms of income, but also personal development. Technological change for example, may not bring advantages just for managers – it may make work more satisfying for workers.

More generally, even in organisations where ‘high performance working’ and the ‘learning organisation’ are not the rule, working for a particular company may bring a sense of pride, achievement and self-esteem. The result is that there may little experience of the power ‘over’ to be discussed below. This is especially true of the successful organisation.

Sometimes such sentiments are attributed to a state of ‘false consciousness’ or to the ‘attitudinal structuring’ discussed in previous chapters. Yet this is to ignore two points. First, employees have a range of interests that their employment satisfies - in Lukes’ words, ‘everyone’s interests are multiple, conflicting and of different kinds’<sup>10</sup>. Second, ideology is not only something that managers impose on employees, though of course it can have that quality. Employees produce their own ideology, i.e. sets of beliefs which expressed and reinforced a particular set of power relations. It is also produced in the process of social interaction, as in rituals and ceremonies, but also in day-to-day life<sup>11</sup>.

The dispute involving British Airways cabin crews introduced in the previous chapter will help to illustrate the point. A regular charge that the cabin crew and their representatives made was that it was BA managers who were exposing the organisations’ reputation to threat. Not only was management acting irresponsibly in trying to impose changes at such a critical time, i.e. in the run-up to the Christmas/New Year holidays. Some of the changes being proposed would seriously damage the customer service with which they associated themselves in working for the ‘Worlds’ favourite airline’.

Arguably, though, the ‘productive’ and ‘transformative’ power that RBV proponents refer to, involving individuals going the proverbial extra mile, is less obvious in employment than it is in work for voluntary organisations. In the first, work seems so often to be endured, whereas in the second tends to be enjoyed. Indeed, it is the absence of this form of power in work organisations that

commentators are effectively highlighting when they suggest that managers have a problem of engagement. It is an issue to which the chapter returns in the final section.

### **Power 'over'**

It is the second type of power – the ability of one individual or group to dominate another/ to make them do something they would not otherwise wish to do – that has received most attention in employment relations. Two dimensions have to be considered. One is the different 'faces' of such power. Power 'over' is not just about decision making: it also embraces being able to set the agenda and structure attitudes, taking us back to the discussion of the different processes of negotiation in Chapter 5. The other is the inequality or asymmetry of power that is involved in the employment relationship. In theory, there are two equal parties in the dependency relationship that is the employment relationship. In practice, the parties are very unequal': not only is the inequality of power a design feature of the employment relationship - some people gives orders and others have to obey them – but the two parties also have very different resources available to them. The consequences have been far-reaching. Not only have trade unions and professional organisations emerged to offer countervailing power. Governments have almost invariably intervened in the form of legislation to achieve a balance between flexibility and security helping to explain why the employment relationship cannot be understand simply as a private relationship between two parties: it is, in practice, a multi-level phenomenon.

#### *The three 'faces'*

Following Lukes<sup>12</sup>, the sociologist who first coined the term, the exercise of power 'over' is seen as having three 'faces'. The first 'face' equates power with a process that is very transparent and observable. Essentially, it is about domination and decision-making. 'The focus is concrete behaviour and the making of decisions ... Power occurs where one group's expressed views come into opposition with those of another, and power is the ability to secure

one's own aims'<sup>13</sup>. Put simply, it could be a case of A getting B to do something that they wouldn't otherwise wish to do. Or of A creating situation that is unfavourable to B but that B cannot do anything about. The powerful, in other words, are those who hold sway in decision making.

Such power relationships are to be found throughout work organisations, helping to explain why a political perspective on their understanding is so essential. The HR function in the UK is a case in point. At operational level, HR managers may appear to exercise considerable power 'over' their managerial colleagues in operating functions - for example, first line managers may complain that HR managers are constantly interfering, telling them what they can and cannot do in terms of the treatment of employees. At strategic level, however, it is a very different matter. A widely held is that personnel management is very much a 'Cinderella' function. It gets its epithet not just because the majority of HR managers are women. Rightly or wrongly personnel management is associated with low level administrative routine with little or no power to influence the strategic direction of the business. This helps to explain why most courses on MBA programmes dealing with the area have to be entitled 'Human Resource Management' or 'Strategic Human Resource Management' if there are to be any takers.

Important though the distribution, exercise and consequences of power 'over' are for the managerial functions, our primary focus is on their implications for the conduct of the employment relationship. Perhaps the most obvious exercise of such power in employment relations - it certainly is the one that gains most media attention - is to be found in the case of 'distributive bargaining' over wages discussed in the previous chapter. Management may 'decide' that it cannot possibly afford a pay increase of more than X per cent. The trade union may 'decide' that this is totally unacceptable and is able to mobilise sufficient support to win a strike ballot. In these circumstances, management may decide that making some concession is the lesser of the two evils. Alternatively, it may decide to call the trade union's bluff - the ballot goes ahead, the result is the same, but the trade union finds that it is unable to translate the mandate into strike action or the strike action fizzles out. In each case, there is a

patent difference of interest with one party seeking to impose its views on the other backed up by sanctions.

Note that, as in the case of power ‘to’, the exercise of power ‘over’ in such situations is not just a question of individual behaviour. Two groups are involved, both deriving their ‘power’ from the performance of their respective agency functions. Management is acting as the agent of shareholders, more of which in Chapter 8. The trade union similarly represents the interests of employees – indeed, as Chapter 9 argues, the fundamental logic of collective action that trade unions embody is rooted in the ability to offer a countervailing power to that which is built into the employment relationship in management’s favour.

Power ‘over’, along with the ability of the parties to exercise it, does not exist in a vacuum, however. It very much depends on context. For example, in most countries the legal framework spells out in some detail the parameters within which power ‘over’ in industrial disputes can be exercised. The status accorded to collective agreements and strikes is also important. Unlike in UK, in most EU countries, collective agreements are compulsory contracts: the terms and conditions are binding on the signatory organisations and their members. One major difference, however, involves the ‘peace obligation’ under which the parties must refrain from industrial action over issues covered by the contract for its duration. In countries such as Germany and Sweden, the peace obligation is extremely strong, with infringements being subject to legal action. In the ‘Latin’ countries, especially France, the peace obligation is extremely weak, largely because the constitutional right to strike is deemed to override it.

Timing is also likely to be an important consideration. It is no coincidence, as Chapter 7 discusses in more detail, that strike activity has tended to correlate with levels of inflation and of employment: low levels of inflation and higher levels of unemployment are likely to mean that management is the more powerful, with the opposite being the case for trade unions. Important too is the history of the relationship for the reasons to do with ‘path dependency’ discussed in Chapter 4. If there is long history of successful collective action, the

easier it is likely to be for the trade union to mobilise its members; if there is no such history, it may be impossible to do so even if, in every other respect, conditions are favourable.

The second ‘face’ starts from the proposition that ‘power is at its most effective when least observable’<sup>14</sup> - it is often called the power of ‘non-decision-making’. Basically, it introduces the idea that power is not just about decision making, but also the ability to set the agenda. The concern is still with concrete behaviour and observable action; context, timing and history are also fundamentally important. There is, however, a shift in emphasis into the ‘corridors of power’, where the exercise of power ‘over’ may not be as visible and so as easily monitored as it is at the negotiating table.

The process of joint consultation offers us a very good illustration of the exercise of the second ‘face’ of power. There are two main types of consultation: ‘decision-based’ and ‘option-based’. In the first, management considers a range of possible ways, say, of restructuring operations in the light of changing market conditions. In due course, it decides on its preferred option and consults the views of trade unions or works council on how to handle the implications. In the second, instead of putting just its ‘decision’ on the table, management reveals the full range of options it has been considering and invites views on these, with or without any expression of its own preferences. Clearly, in both cases, management controls the agenda, with the final decision resting with them. Whereas in the second case employees’ representatives have the opportunity to discuss the full range of options, however, in the first they are restricted to the one management has decided on – indeed, they may never come to know what the other options were and so have an opportunity to express their alternatives preference.

The third ‘face’ of power is an altogether different proposition from the first two in as much as the focus shifts away from actual and observable behaviour. It is the ability to shape people’s expectations and so is a form of ideological power. Lukes gives a strong flavour of what is involved in asking:

... is it not the most invidious exercise of power to prevent people  
... from having grievances by shaping their perceptions,

cognitions and preferences in such a way that they accept their role in the existing order of things, either because they can see or imagine no alternative to it, or because they see it as natural or unchangeable, or because they value it as divinely ordained and beneficial?<sup>15</sup>

In other words, the third ‘face’ of power is another way of describing the process of ‘attitudinal structuring’ that featured in the previous chapter dealing with negotiation. As was explained there, examples are to be found in the increasingly extensive management use of communication systems, where the aim is not just about to bring employees up-to-date with developments, i.e. giving them information. Rather it is to structure their attitudes and shape their preferences.

A specific illustration of the force of Lukes’ question in employment relations is to be found in some uses of the ‘psychological contract’ discussed in the previous chapter. Very often, it seems, the underlying purpose of the emphasis is to change employees’ perceptions of what they might expect of the employment relationship. In particular, in many cases they are being strongly encouraged to accept that it is no longer possible for the employer to meet two of the elements in the employment relationship that help to distinguish it from the labour services contract, namely the prospect of continuity of employment/a career and an adequate pension in retirement. Sadly, there is little if any recognition in the ‘psychological contract’ literature that proponents are effectively encouraging managers to exercise Lukes’ third (and ‘the most invidious’) ‘face’ of power – which is yet another reason why the employment relations community treats the concept with such unease.

#### *A very asymmetric relationship*

So far, although located in the context of the work organisation, the discussion could be applied to any type of social relationship. The next topic highlights one of its outstanding features of employment relationship. In theory, as Chapter 3 stressed, there are two equal parties to the employment relationship. In practice, the employment

## EMPLOYMENT RELATIONS MATTERS

relationship is a very unequal or *asymmetric* one, with one party (the employer) having domination or power 'over' the other (the employees).

There are two main reasons for the asymmetry of power in the employment relationship. The first, as Chapter 3 explained, is that it is an intrinsic design feature of the employment relationship - employers 'effectively purchase the rights of residual control'<sup>16</sup>. By definition, the exercise of residual control rights puts the parties into a subordinate/superordinate relationship: the employment relationship involves a governance structure that is rooted in an organisational hierarchy, where managers give and employees receive orders. All in all, employees submit to an arrangement that is largely discretionary as well as open-ended, with considerable opportunities for the use (and abuse) of power both by individual managers and the overall structure of controls discussed in Chapter 4.

Reinforcing the asymmetry of the relationship is the way in which the contract is viewed legally. This is particularly true of the UK and the USA, recalling the discussion of 'nexus of contract' thinking in Chapter 3. In the words of one recent employment law textbook,

The paradigm of an employment contract ... contains an authority structure at its heart. In return for the payment of wages, the employer bargains for the right to direct the workforce in the most productive way. An employee consents to obey these instructions, and so enters into a relation of subordination. The authority structure may be articulated through formal rules of the organisation or day-to-day instructions from supervisors and managers. Since compliance with this authority structure is essential for the efficient operation of a contract that is incomplete by design, a disobedient employee must be sanctioned. The most visible sign of this authority structure is therefore the use of discipline by the employer, such as deductions from pay and dismissal from employment<sup>17</sup>.

In the even more graphic words of perhaps the most eminent of UK employment lawyers (Kahn-Freund) describing the employment relationship: 'In its inception, it is an act of submission, in its operation it is a condition of subordination, however much the

submission and subordination may be concealed by that indispensable figment of the legal mind known as the ‘contract of employment’<sup>18</sup>.

Seen from this perspective, the rival explanations of managerial hierarchy to be found in transaction cost analysis and radical theory are not as mutually exclusive as they are often painted. It may be that hierarchy is a necessary feature of work organisations on efficiency grounds as transaction cost theorists argue<sup>19</sup>. But it is also the case, as radical theorists have argued, that it guarantees a particular group, i.e. entrepreneurs and their agent managers, an essential role in the process of production and exchange<sup>20</sup>.

The second respect in which the two parties to the employment relationship are very unequal brings in the issue of resources. The asymmetry of power ‘over’ that is intrinsic to the employment relationship is reinforced by the unequal resources available to the two parties to influence each other in their dependency relationship. The employee is a single individual usually with very limited resources. He/she is relatively immobile and typically has much less information about the employment situation than the employer. Moreover, he/she has to work in order to secure income. In the strong language of Marx, ‘Labourers rarely come willingly to the capitalist labour market. Rather as wage slaves, they were compelled to sell their capacity to labour to the capitalist in return for a wage that would give them access to the material necessities of food and clothing’<sup>21</sup>. By contrast, the employer is a corporate entity most often with substantial resources at its disposal, which can be economic, political or ideological. Thus the employer has the capacity to deny the employee income; has the backing of the law in exercising their residual control rights; and, as has already been suggested in discussing the third ‘face’ of power or ‘attitudinal structuring’, is in a position to deploy a wide variety of techniques with which to seek to influence the ‘hearts and minds’ of employees.

Putting the main emphasis on employers is not to suggest that employees are totally powerless. Some employees are better placed than others in terms of their ‘structural’ position. Some individuals are in a strong labour market position. For example, one of the arguments that the banks put forward for paying exorbitant bonuses is that their

dealers and traders will move to other employers if any attempt is made to rein them in. In this case, the immediate context means that they seem able to defy both their shareholders and governments in adopting this position.

A wider group in a strong position comprises those who are able to establish a considerable control over the supply of labour usually through extensive training periods, a closed shop and strict codes of discipline. Historically, the craft societies that dominated the first phase of trade union organisation are examples. Latterly, it would occupations involved in the professions that enjoy this advantage. In the UK, for example, organisations such as the British Medical Association have been able to achieve a very considerable degree. In this case, it is not just a matter of pay and conditions. Effectively, their position enables them to have a major influence on allocation of capital resources as between hospitals and general practice and the different medical specialisms.

Arguably, though, the opportunities for employees to exercise such potentially 'productive' or 'transformative' power are relatively rare: the most that employees can usually do is to try to veto management's use of power 'over', thereby contributing to a 'zero sum' game situation. For example, Edwards reminds of the debate that took place in the UK over the power associated with trade unions in the 1970s. The popular perception encouraged by the media was that trade unions were 'too powerful'. Yet it could be argued that they 'too weak'. Certainly trade unions were able to exercise 'power over' management in 'the sense of pursuing wage claims or bargaining on the shop floor ... [yet they] lacked 'power to' press through a programme of modernization that would secure their members' long-term interests'<sup>22</sup>. Edwards goes on to suggest that this largely because of the ideological dimension ... an absence of concepts that can challenge the prevailing orthodoxy'.

Even groups and occupations that are unable to organise collectively, let alone exercise the controls associated with the professions, are not without some power. This is because of the continuous nature of the employment relationship discussed in Chapter 3. Thus, employees who feel aggrieved by a management action have a wide range of opportunities to get their own back. This

is above all true of situations where employees are directly involved with customers as in the increasing service sector where managers have to worry reputational effects. ‘Organisational misbehaviour’, as the next chapter explains, can take a wide range of activities from working without enthusiasm through to sabotage. Important too is that the costs of monitoring can be prohibitively expensive. It is for these reasons that managers usually do not exploit their power’ over’ to its fullest extent – going beyond employees’ ‘zone of acceptance’ discussed in the previous chapter can be self-defeating.

There are also two other considerations. One is the legal framework. Unfair dismissal is likely to result in a claim to an Employment Tribunal or its equivalent. Minimum wages legislation makes it more difficult for employers to exploit employees in the pejorative sense. The other consideration is the so-called ‘reputational effects’ of management actions<sup>23</sup>. Large public companies in particular will not want to be known for unfair or aggressive actions. Not only is the ‘bad’ press that it brings likely to make it more difficult to recruit high quality staff. In some cases, it may have a very damaging effect on the public image with a considerable loss of sales. ‘Naming and shaming’ has become a tactic that groups that Non-governmental organisations, as well as trade unions, regularly now use.

In terms of consequences, it is the unequal power relationship that helps to explain why trade unions and professional organisations have almost invariably grown up to represent employees’ interests at work. It is also the unequal power relationship that provides the rationale for state intervention in the form of individual employment rights, support for trade unions and collective bargaining, and dispute resolution machinery. In effect, the state is intervening on behalf of what society recognises is the weaker party. Thus, in the UK, the employment law textbook quoted earlier talks in terms of the ‘normative claim for labour law to constitute an autonomous legal domain within which inequality of bargaining power between worker and employer may be taken for granted, and where protection of the worker against unfair exploitation is therefore a paramount and systemic rationale for law-making and for adjudication’<sup>24</sup>.

Implicit here is a rejection of one of the notions at the heart of ‘nexus of contract’ thinking, namely that the company is a ‘private association with which the state ought to have very little to do with’<sup>25</sup>. Rather the company is to be seen as a public association. In as much as the state supports the company in its day-to-day operation in a variety of different ways, it arguably earns the right to intervene with measures designed to minimise any abuse of the employer’s discretionary rights that might otherwise be damaging to society as a whole. It is a point to which Chapter 10 returns in considering the role of public policy.

One of the most interesting questions is the extent to which such intervention has taken the edge of the pressure for collective action. The ‘juridification’ of the employment relationship discussed in Chapter 3 leaves considerable room for managers to act ‘opportunistically’, i.e. to take advantage of the asymmetry of power to push to the extreme the ‘zones of acceptance’ discussed in Chapter 5. Arguably, however, it has helped to take some of the edge off the abuse of managerial power – in particular, by helping to ensure greater consistency of management behaviour. It has also given employees a mechanism for appealing when they feel managers have abused their power. The wider implications of ‘juridification’ is an issue to which Chapter 9 will return in discussing the reasons for the decline in trade union membership and the coverage of collective bargaining over the last three decades

### **Coping with continuous tension?**

If this discussion of power ‘over’ and power ‘to’ appears to be somewhat philosophical, it is important to emphasise that much of the day-to-day reality of employment relations reflects the more or less continuous tension between the two dimensions. Indeed, its contradictory nature is one of the great paradoxes of the employment relationship. Achieving the kind of power ‘to’ that the *Economist*’s Schumpeter columns extol sits very uneasily with the nature and extent of the hierarchical arrangements typically involved in exercising power ‘over’. It may be possible in moments of crisis, but

achieving it regularly and consistently appears to be much more difficult.

Part of the problem is that the close association of managers with the design and operation of the organisation structure is double-edged in its implications. On the one hand, it means that the control that they exercise is not necessarily experienced as power 'over'. Rather it comes across as authority – in Fox's words, it is 'a relationship in which the superordinate is perceived by the subordinate as having the right to make decisions which must be accepted as binding'<sup>26</sup>. At the same time, however, authority is a very fragile state. Having responsibility means that managers are constantly on trial. In Fox's words again,

Authority is not an attribute which can be built into the social system rather as one builds-motive power into the technological system. It is a relationship which requires appropriate behaviours from both superordinate and subordinate. It is one in which the subordinate extends 'consent' to the order-giving role of the superior, i.e. legitimises the norms governing this relationship'<sup>27</sup>.

Any mistake or indiscretion very quickly becomes transparent and threatens to undermine managers' authority in the eyes of both colleagues and subordinates. Authority is said to lie in the *right* to expect and command obedience. It will not do, however, to infer that authority exists simply because management norms have conferred this right upon certain specific roles. What if the subordinate does not acknowledge the right? It is he who confers legitimacy upon the superordinate's claim for obedience-or withholds it ... Perhaps inevitably, it is when they are uncertain about their positions and/or they suffer a loss of authority that managers fall back on resort to 'power over'. The problem is that the more they do this, the less chance there is of maintaining their authority. Furthermore, over-use of power over can become a habit, which becomes mutually reinforcing. Industrial action often occurs when managers overestimate the power they have. They go over the top. There is a strong adverse reaction, to which they feel they have to respond with the exercise of greater power creating a vicious spiral in the process.

## EMPLOYMENT RELATIONS MATTERS

Perhaps even more important in the tension is if managers open themselves to the charge that they are abusing their power 'to'. It could be when they lose their reputation for technical competence – for doing what they are paid to do. Or it could be when they are seen to be taking more out of the business than they are putting in - it could be higher pay or perks or status or privileges. This is above all true of situations in which employees are expected to pay the price for management failure in terms of redundancy or closure.

The setting up of manufacturing operations in the UK of the Japanese car companies – Honda in Swindon, Nissan in Sunderland and Toyota near Derby – offers a good illustration of the point. Interviews with employees carry a very similar message. Japanese managers are tough and stand no nonsense but, unlike many of their UK or US counterparts, they are damn good at their job – producing reliable cars at affordable prices. Another reason for the respect in which they are held is that they seemingly show little of UK managers' interest in the trappings and status of management – they are very visible, wear the same overalls, share the same canteens and do not seem to be obsessed with the size of their company car.

This example draws attention to some of the underlying and more elusive considerations in fully understanding the exercise of power. The different status and perceptions of the role of managers is not something that individual managers are wholly responsible for. They are deeply rooted in the wider society.

The same is true of the relative status and importance accorded to the different management functions, which is so important in understanding the impact of corporate governance arrangements discussed in Chapter 8. Even the most cursory international comparison leads to the inescapable conclusion that there are fundamental cross-national differences that have very little to do with universally objective criteria. Rather they reflect the development of individual professions and occupations and the power/domination that they have been able to wield in the society. In the UK, the finance function and financial engineering enjoy a pre-eminent position reflecting the structure of financial markets and the raising of capital. In Germany, by contrast, the engineering/production function is much more powerful – partly because the status it enjoys in the higher

education system and partly because of the significance of the manufacturing sector more generally. Once in a position of such power these functions are able to wield considerable influence not just over the strategies of individual companies, but also business developments more generally.

In any event, down through the years, there have been many ideas for resolving the tension between power ‘to’ and power ‘over’, even if they have not been framed in this language. Thus, in the 1920s, there was considerable emphasis on the leadership skills of supervisors and the need for training in human relations. In the 1950s and 1960s, as Chapter 2 pointed out, there was emphasis on job design and issues of work organisation. In particular, semi-autonomous team working came to be seen as the great panacea for alienation and involvement as well as cutting out excessive and expensive managerial hierarchies. In the words of Peters,

There is ample evidence that ... economic performance will increasingly depend on quality, service, constant innovation/improvement, and enhanced flexibility/ responsiveness. Committed, flexible, multi-skilled, constantly retrained people, joined together in self-managing teams, are the only possible implementers of this strategy<sup>28</sup>.

Differences between managers and the managed also came to be seen as an issue, especially as Japanese manufacturers began to make the difference. From the early 1970s, there were significant moves towards single status terms and conditions that closed the gap on a wide range of highly symbolic differences such as canteen facilities and the funding of pensions. Open plan offices also came into vogue.

The delegation of responsibility continues to carry most hopes. To paraphrase Worsely and Moynagh, it is expected that more and more companies will be forced by competitive pressures to increase their products’ and services sophistication, requiring them to transform their workplaces<sup>29</sup>. Competitive pressures, technology and customer relations, in turn, encourage greater decentralisation and team working. Coupled with the increasing attention focusing on winning

commitment, it means that individual employees are likely to be given greater discretion.

There is substantial evidence of significantly increased skill levels and that 'the most prevalent employer policy with regard to work organisation has been a move towards 'responsible autonomy''<sup>30</sup>. Yet, as research is already showing, where workers have assumed new responsibilities and have had more involvement in work organisation, there is a strong tendency for managers to seek new forms of control. Most obviously there are rigorous performance targets, peer monitoring, frequent appraisals and other forms of surveillance. As authoritative bodies such as the UK's Audit Commission<sup>31</sup> and the House of Commons Public Administration Select Committee<sup>32</sup> have recognised in the case of public services, centralised and detailed targets, very often reflecting short-term political pressures, have considerably distorted management priorities as well as riding roughshod over local consultative processes. As well as "middle managers' resistance, worries about risk are also expected to seriously weaken the delegation of authority"<sup>33</sup>.

Other proposals have gone beyond what might be described as 'hygiene' remedies to deal directly with the power imbalance. Thus the idea of some form of collective employee 'voice' has been strongly canvassed. Individual 'voice' mechanisms such as team briefings, quality circles and suggestions schemes may be necessary, but are not in themselves sufficient because they do nothing to affect the power relationship. Managers who resist collective forms are denying themselves an opportunity to hear how it really is. A second debate has taken place about the type of collective 'voice' mechanism. Many countries have introduced democratically-elected statutory works council-type institutions with rights ranging from information and consultation to co-determination. The weakness in this, goes the argument, is that such bodies are insufficiently independent. In the UK, in particular, rather than being posed as complementary, works council-type institutions have been seen as a threat to traditional collective bargaining, helping to explain the TUC's considerable ambivalence to the EU's 2005 national information and consultation directive.

It is also in the UK that attempts were made in the 1970s to promote the idea of ‘management by agreement’ in the form of collective bargaining<sup>34</sup>. Here the starting point was Flanders’ famous dictum, that if managers wanted to regain control, they would have to share it<sup>35</sup>. Arguably, it was employers’ fear of having collective bargaining in the boardroom that it made it impossible to reach a consensus about worker directors on the Bullock Committee of Inquiry into industrial democracy in the mid 1970s.

One idea that seems to survive – it appeared on the agendas of both main political parties in the UK’s general election of 2010 - is that of worker cooperatives or labour-managed firms. In principle, in a truly competitive market economy, it should not matter whether it is capital that hires labour or labour that hires capital<sup>36</sup>. On the face of it, however, of the three main forms of control (the traditional shareholder-managed, state enterprises and worker cooperatives or labour-managed firms), the last would appear to be far superior in terms of shifting the balance from power ‘over’ to power ‘to’. As Table 6.1 suggests, worker cooperatives provide goods and services in ways that minimise the ‘economic autocracy’ of the traditional (shareholder-managed) firm. They are not exploitative in the way that such firms are – employees enjoy the fruits of their own labour. Excessive hierarchy can be avoided and appointments made to hierarchical positions in a way that promotes efficiency and commands general respect (which are two of Williamson’s<sup>37</sup> criticisms of traditional managerial hierarchies). Perhaps above all, to paraphrase Vanek<sup>38</sup>, whereas in the traditional shareholder-managed firm, people enter the equation with a negative sign as costs to be minimised, in the worker cooperative they and their development are central. Additionally, there are the social capital benefits that worker cooperatives bring. In the words of the International Co-operative Alliance, co-operatives are based on the values of ‘self-help, self-responsibility, democracy, equality, equity and solidarity’; there is ‘concern for community’ and employment is ‘an exercise in economic democracy’<sup>39</sup>.

Worker cooperatives are also not just abstract concepts. There are many of them and many varieties. In the UK, the highly profitable John Lewis Partnership (known as ‘Britain’s favourite retailer’),

## EMPLOYMENT RELATIONS MATTERS

employs almost 70,00 people in its department (John Lewis) and food (Waitrose) stores. In Spain's Basque country, the Mondragon Corporation employs over 92,000 people working in companies in finance, industry, and retail, along with a university and a number of technology centres. Arguably, too, although not a very good advertisement for the model, many banks and financial institutions have increasingly come to resemble worker cooperatives in as much as the interests of the workers come first.

The obvious question is that, if worker cooperatives bring the advantages they appear to do, why are there not many more of them? Some of the reasons advanced turn on the practicalities of the operation of worker cooperatives and their relative efficiency. Critics argue that the decision making processes are not as dynamic as those in the traditional shareholder-managed business; that meeting both cooperative aims and business needs requires complex management; that the different groups are prone to conflict; that cooperatives have difficulty in recruiting and/or retaining people with managerial abilities. Another line of explanation picks up the argument in Chapter 4 about 'path dependency' and critical mass. Moving from shareholder-managed firms to labour-managed ones would not be straightforward in an era when shareholding is much more dispersed than when Spedan Lewis transferred control of his company to its employees in 1950. Without a critical mass, it would also be difficult to convince people that this was a realistic proposition.

The power considerations discussed earlier in this chapter also have to be taken into account. Worker cooperatives do not just mean that the power of managers is reduced. Much more fundamentally, there would not be the same opportunities for external shareholders to extract appropriate anything like the same level of 'rents' they are able to from traditionally-run businesses – arguably, the banks, with their very high levels of profits, being the exception that proves the rule.

The advocacy of worker cooperatives by the two main parties in the UK's 2010 general election also needs to be put into context. In both cases, the proposals were targeted primarily at the public sector. Both parties may be sincere in the belief that their proposals would bring the kind of benefits outlined in the *Statement on Co-operative Identity*. It is difficult to escape the conclusion, however, that political

expediency was the main motivation and the earlier discussion of the 'faces of power' highly relevant. Thus government and local authorities will continue to retain the ultimate power to set budgets and impose targets. Meanwhile, devolving day-to-day operations to bodies such as worker cooperatives means that policy makers will be able, to some extent, to distance themselves from responsibility for decisions that are likely to lead not just to a reduction in the services available, but also a loss of jobs and a worsening of services. As the 'Comprehensive Spending Review' of October 2010 revealed, there will be deep cuts in public expenditure reflecting the rise of the national debt incurred in overcoming the banking and financial crisis of 2007-09.

**Table 6.1 Three types of control structure<sup>40</sup>**

	<b>Traditional Corporations (Shareholder-managed firms)</b>	<b>State Enterprises</b>	<b>Worker Cooperatives (Labour-managed firms)</b>
<b>Purpose</b>	Earn profit and increase value of shares	Provide goods and services for citizens.	Maximise net and real worth of all owners.
<b>Organisation</b>	<ul style="list-style-type: none"> <li>Organised and controlled by investors</li> <li>Incorporated under relevant incorporation laws - varies by country</li> <li>Except for closely held companies anyone may buy stock Stock may be traded in the public market</li> </ul>	<ul style="list-style-type: none"> <li>Organised and controlled by state</li> <li>Chartered by relevant level of government</li> <li>No stock</li> </ul>	<ul style="list-style-type: none"> <li>Organised and controlled by worker-members</li> <li>Incorporated under relevant incorporation laws - varies by country</li> <li>Only worker-members may own stock, one share per member No public sale of stock</li> </ul>
<b>Ownership</b>	<ul style="list-style-type: none"> <li>Stockholders</li> </ul>	<ul style="list-style-type: none"> <li>State</li> </ul>	<ul style="list-style-type: none"> <li>Worker members</li> </ul>
<b>Control</b>	<ul style="list-style-type: none"> <li>By Investors- managed form</li> <li>Policies set by stockholders or board of directors.</li> </ul>	<ul style="list-style-type: none"> <li>By state</li> <li>Policy set by government planners.</li> </ul>	<ul style="list-style-type: none"> <li>By worker members</li> <li>Policy set by directors elected by worker-members, or by assembly of worker-members</li> </ul>

**Table 6.1 Three types of control structure (cont.)**

<b>Sources of Capital</b>	<ul style="list-style-type: none"> <li>Investors, banks, pension funds, the public</li> <li>From profitable subsidiaries or by retaining all or part of the profits</li> </ul>	The state	<ul style="list-style-type: none"> <li>By members or lenders who have no equity or vote</li> <li>From net earnings, a portion of which are set aside for reinvestment</li> </ul>
<b>Distribution of Net Margin Capital Dividends</b>	To stockholders on the basis of number of shares owned No limit, amount set by owner or Board of Directors	To the State	To members after funds are set aside for reserves and allocated to a collective account Limited to an interest-like percentage set by policy
<b>Operating Practices</b>	<ul style="list-style-type: none"> <li>Owners or managers order production schedules and set wages and hours, sometimes with union participation</li> <li>Working conditions determined by labour law and collective bargaining.</li> </ul>	<ul style="list-style-type: none"> <li>Managers order production schedules and set wages and hours, sometimes with union participation</li> <li>Working conditions determined by labour law and collective bargaining.</li> </ul>	<ul style="list-style-type: none"> <li>Workers set production schedules either through elected boards and appointed managers or directly through assemblies</li> <li>Working conditions determined by labour law and assembly of worker-members or internal dialogue between members and managers.</li> </ul>

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## **Changing expressions of conflict**

### **Main tasks**

- **Explain why the employment relationship is characterised by conflict as well as cooperation**
- **Review the manifest expressions of conflict at work**
- **Consider the changing patterns of these expressions and the reasons for them**

### **Summary**

The employment relationship is characterised by conflict as well as cooperation, reflecting its enduring features and, in particular, an in-built 'structural antagonism'. Conflict, which can be defined as the discontent arising from a perceived clash of interests, can involve individuals and/or groups and take a number of expressions. The most manifest are disputes that employees initiate, either individually or collectively, in response to employer action such as a disciplinary charge or change in working practices or a refusal to meet a wage demand. 'Other expressions' include forms of 'organisational misbehaviour' such as working without cooperation, theft and sabotage. Absenteeism, accidents and resignations may also be indicators of discontent. In terms of patterns, the incidence of strikes has declined massively over the last twenty five years not just in the UK but other OECD countries as well. By contrast, individual disputes remain a prominent feature in the UK, with measures such as Employment Tribunal claims increasing substantially though still affecting a relatively small percentage of workplaces. Meanwhile, other expressions of conflict such as absenteeism and resignations show no signs of reducing. Yet, contrary to the relationship that this suggests, the different forms of conflict are not, in the most part, substitutes to one another, with the issues as well as the parties being

different. The more opportunities employees have to air their grievances, especially through employee ‘voice’ mechanisms, the more they are likely to do so. In the absence of these opportunities and mechanisms, conflict is likely to manifest itself in much higher levels of employee turnover. Legislative change may have played some part in the reduction in strike activity, but the fact that most countries experienced similar falls in recent years suggests that other factors were also at work. As well as a weakening in the structure of collective organisation, seen in reduced trade union density and bargaining coverage, these include shifts in the distribution of employment between sectors and occupations; increasing competition in both product and capital markets as a result of trade liberalisation and globalisation; an increase in human resource ‘professionalism’ and ‘proceduralisation’ reflecting the ‘juridification’ of employment relations; and a changing ideological context.

### **Introduction: a ‘structured antagonism’**

Conflict can be defined as the ‘discontent arising from a perceived clash of interests’<sup>1</sup>. Conflict at work can involve a variety of individuals and different groups. For example, different sections of employees may see their interests in conflict – demarcation disputes are a case in point. The same goes for the different functions of management or for managers at different levels of the organisation. Conflict at work may also reflect discontent with government policy that has significant implications for wages and conditions – an example would be the strikes in October 2010 protesting against the French government decision to raise the pension age as this text was being completed. It is normally thought of as something that arises from the conduct of the employment relationship, however, reflecting what has been described as an in-built ‘structural antagonism’<sup>2</sup>. Importantly, this does not necessarily mean that there is a general conflict of interest – as Chapter 2 stressed, employees have many interests that the employment relationship may serve. It does mean, though, that the potential for specific conflicts of interest is ever present and that the expressions of such conflicts, be they over the fixing of wages and conditions or the exercise of the employer’s

discretionary rights, is not just a matter of faulty procedures, 'bad' management or willful employees.

The reason why conflict looms so large in employment relations is because of the enduring features of the employment relationship outlined in Chapter 3. Chief among these is the exploitative nature of the employment relationship. Employers 'exploit' employees in as much as they deploy their labour and/or knowledge power in order to meet their objectives which, in the case of private sector companies, is to generate a surplus. Unlike the independent worker, moreover, many employees have little or no say in how their labour or knowledge is deployed, reflecting the asymmetric or unequal power relationship discussed in Chapter 6.

Also fundamentally important is the *contradictory* nature of the employment relationship. In as much as they 'sell' their labour and/or knowledge power to be used at the discretion of the employer's agents, the employment relationship involves employees in an act of submission or subordination. This means that, in democratic societies, the contrast between their organisational and civil lives could hardly be sharper. Employees as citizens are not only encouraged to have expectations about justice and due process, but also have the right to vote to determine those who govern them and the way that they govern. For those who have to manage it, the employment relationship is contradictory for different reasons. In as much as employees represent both a cost and an investment, compromises inevitably have to be made. They are under pressure to cut costs to be bone and yet at the same time have to motivate employees not just to obey managers' instructions, but also to exercise their judgment and initiative.

The fact that the employment relationship is *indeterminate* means that there is also great uncertainty, fuelling the prospect of divergent goals and interpretation. Contracts of employment, it will be recalled from Chapter 3 are 'incomplete by design', in the sense that the details of the work to be done are largely left to be decided by managerial direction: for employees, it is the equivalent of signing Simon's 'blank cheque'. For employers, the implications are no less profound. In effect, they are purchasing not a finite amount of work, as in the case of the labour service contract, but the employee's ability to work. Nothing is automatic about the employment relationship, however, and the exercise of the employer's ex post or residual control rights is far from straightforward. Managers need employees to do more than

simply comply with instructions. They need their co-operation and commitment to continuously improve performance. The sting in the tail is that the motivation and commitment so critical to performance reflect not just the economic return, but also the job satisfaction and emotional reward that people derive from their work. The upshot is that negotiation and the exercise of power are integral to work organisations, regardless of the presence of trade unions.

Unlike the labour services agreement, the employment relationship is also *continuous* or *open-ended*. Being *continuous* means that there are more or less constant pressures on and opportunities for the parties to act opportunistically, i.e. to seek to adjust the exchange in their favour. Historically, it was employees and their trade unions that were most associated with such change and the focus was on terms and conditions. More recently, with intensifying pressure on business performance, it is managers who have come to the fore, with the emphasis shifting to 'continuous improvement' and 'smarter working' as discussed in Chapter 5.

Finally, as several previous chapters have emphasised, the employment relationship involves a complex 'governance' regime of institutions or rules. The scope for differences over both substance and process is considerable. Alongside a hierarchically-based structure dealing with work organisation and 'performance management' will be found statutory employment rights and collective agreement provisions (where trade unions are recognised), along with a raft of local informal norms ('custom and practice') and expectations of behaviour imported from the wider society. 'Psychological contracts' reflecting individual employee experience also have to be built into the equation. Encompassing such divergent paradigms, the relationship is by its very nature given to conflict as well as cooperation.

In recognition of the potential for the employment relationship to give rise to conflict, governments have almost invariably intervened to minimise the impact. As well as encouraging the parties themselves to put in place procedures for resolving their differences, they have also introduced state-funded machinery for resolving both individual and collective disputes. As a later section describes, in some countries these are part of the general court system; in others there are specialist labour courts; in yet a further group, there specialist and independent

agencies such as employment tribunals with practitioner as well as legal involvement.

## **Expressions of conflict**

Conflict at work cannot be measured – there may be considerable discontent that is hidden or suppressed. It is only the expressions of conflict that are visible and so quantifiable. The most manifest and popularly understood expressions are disputes that employees originate. These may be collective or individual. In the first instance, sometimes known as ‘organised’ conflict, a trade union or a work group is the instigator. It could be the result of a disagreement over the tangible benefits of the employment relationship such as wages and conditions reflecting the continuous nature of the relationship. Or it could involve the exercise of management’s residual control rights and/the imposition of sanctions for what managers regard as breaches of discipline.

The action could take the form of a strike or stoppage of work and other forms of industrial action such as overtime bans, work to rule and ‘blacking’ of work. It could be official or ‘unofficial’ action depending on whether it was sanctioned by the union – a key distinguishing feature of ‘organised’ conflict in the UK in the 1960s and 1970s was that it was largely autonomous, unofficial and informal.

In the case of individual disputes, the conflict could result from managers acting in ways that employees deem to be unfair. It could be because the employee believes that they have been wrongly disciplined or dismissed or because they have been discriminated against. Inconsistency of treatment can also be an underlying consideration<sup>3</sup>. Again, a range of possibilities is involved. The most visible is the raising of a grievance or the pursuit of a claim to a labour court or employment tribunal. But there are also what have come to be known as ‘other expressions’ of conflict. These include forms of ‘organisational misbehaviour’<sup>4</sup> such as working without cooperation, theft and sabotage. Absence and resignation are also included. Obviously, not all such activity can be counted as conflict - absenteeism may reflect genuine sickness. Nonetheless, there is evidence that employees use absenteeism, accidents and resignations as forms of ‘exit’ from unsatisfactorily-regarded relationships when

## EMPLOYMENT RELATIONS MATTERS

more familiar, or more organised, forms of expression are either unavailable or are less attractive<sup>5</sup>.

Although conflict at work is usually associated with employee action, employers cannot be left out of the equation. As already indicated, most employee expressions take place in response to employer action reflecting dissatisfaction with some element of the existing employment relationship – in the words of the US saying, ‘management moves and the union grieves’. Such employer actions range from enforcing higher levels of performance and stricter application of disciplinary and dismissal procedures through outsourcing and subcontracting to redundancies and closures. Just as it takes two to tango, so it also takes two for there to be a strike – it is not so much the trade union claim that results in a strike; it is managers’ rejection of the claim. Managers may even ‘engineer’ a strike if it suits their circumstances – many strikes in the UK motor industry in the 1960s and 1970s, it has been suggested, took place following a period of over-production.

Employers can also express their dissatisfaction with the state of play more directly by taking ‘industrial action’ of their own. In the case of individual employees, they can use disciplinary procedures to deal with behaviour that they think is unacceptable. In the case of trade unions, they can resort to the lockout to deal with strikes or the threat of strikes. Although a rarity these days, employers’ organisation-orchestrated lockouts were the main offensive weapon which employers used to fashion their early relations with trade unions. As Chapter 4 emphasised, the lockout played an especially critical role in the development of the institutional framework of employment relations in countries such as Sweden and the UK.

For the UK, there is also evidence of increased stress and bullying as the recession following the financial crisis has hit home. In the words of a Helpline Adviser from the North East in a recent *Acas Policy Discussion Paper*,

There is a cascade of stress down the management chain. The MD shouts at senior management who takes it out on the line manager which in turn affects the employees. The uncertainty in companies is leading to more problems between colleagues. It is not necessarily being raised with employers as people are scared to be seen as making a fuss and problems can escalate quickly.

## **Changing patterns**

### *The decline of strikes*

There are a number of measures of strike activity. The main ones are the absolute number of strikes, the number of workers involved and the number of working days lost (WDL) as a result of industrial disputes and in most cases also the total number of employees. Of these, it is the third measure (WDL) that is the preferred indicator for most observers<sup>6</sup>. This is because, on their own, neither of the first two measures is a good indicator of the overall situation; WDL is also regarded to be less affected by statistical measurement problems in particular because of differences in statistical reporting by the individual countries of the 'number of strikes'.

Very clear, as Tables 7.1 and 7.2 confirm, is that, although major conflicts have far from disappeared, there has been a considerable decline in the number of WDL as a result of strikes. In the words of one recent European survey,

In the 1970s, European employers and employees every year lost on average almost 420 working days for every 1000 employees through industrial conflict. In the 1980s this figure declined to 200, in the 1990s to 56 and today seems to have stabilised at a level of just over 50 days lost, little more than an eighth of the level in the strike-prone 1970s ... In absolute figures, the number of working days lost (WDL) due to industrial conflict has fallen from over 48 million in the 1970s to just 7.2 million days today<sup>7</sup>.

It is not just that there has been a decline in the number of very large and prolonged strikes, such as the British miners' strike in 1984–85 or those (mainly political) strikes in Italy and Spain in the 1970s and 1980s. The underlying trend for shorter and minor strikes also seems to show a decline. In Denmark, for instance, the level of WDL has dropped from around 70 per 1000 employees per year to 40 disregarding large conflicts in the period from 1970 to 2003<sup>8</sup>.

The decline has also been regardless of a country's longer-term strike proneness. Countries such as Italy and Spain, which had almost twice the incidence of industrial conflict (both in terms of workers involved and of WDL) as in northern Europe in the 1970s, show a particularly dramatic decline. But there has also been decline in

countries that were in the middle of the pack (such as France) and at the other end of the spectrum (i.e. the Netherlands, Germany and Sweden). Even though there remain considerable differences between the countries in terms of relative strike-proneness, the variance has also become smaller than in the 1970s.

Comparatively speaking, the UK used to be above the middle of the range for WDL, but since the 1990s has been in the middle or just below the middle. Further details of the trends in strike activity in the UK will be found in Table 7.3.

The USA also shows strong evidence of a long term decline. US Bureau of Labor Statistics suggest that, throughout the period 1948-1970, the number of WDL was never less than 150, with peaks of 700+ in the late 1940s/early 1950s, 900+ in the early 1960s and 600+ in the early 1970s. Thereafter there has been more or less continuous decline. The average number of WDL in the 1990s was less than 50 and in recent years has been even lower still<sup>9</sup>.

A comparison by sector suggests a shift in the balance<sup>10</sup>. Historically, sectors such as mining and quarrying, manufacturing, construction and transport tended to dominate the overall pattern. Although still prominent, they are less so than they used to be. In recent years it is the contribution of the public sector that has grown.

### *Individual disputes*

Most countries have specialist procedures for dealing with disputes between individual employees and employers – the exception among the countries included in the comparison in the Appendix is the Netherlands, where such disputes are handled in the normal courts. In Germany and Sweden, there is a hierarchy of Labour Courts (*Arbeitsgerichte* and *Arbetsdomstolen* respectively). In the UK, there are Employment Tribunals (ETs) (originally named ‘Industrial Tribunals’) and in France *Conseils de prud’hommes*, both of which also have appeals to higher levels. A common feature is the relative accessibility of these bodies. In Germany and Sweden, the labour court comprises a legal chair plus social partner representatives, while in the UK they are accompanied by people of practical experience. In France, members of the *Conseils de prud’hommes* are elected every five years from lists put forward by trade unions and employers’ organisations.

Differences in jurisdiction and reporting arrangements make it difficult to compare the pattern of individual disputes between the countries. There are nonetheless two observations that can be made. First, there would appear to be considerable differences in the number of disputes going before the various bodies. At one end of the spectrum is Sweden, where the number of cases amounted to only just 400 in 2008<sup>11</sup>. By contrast, the level in the other countries is considerably higher even allowing for the differences in the size of the workforce. In France, there were nearly 176,000 cases before the *Conseils de prud'hommes* in 2001<sup>12</sup>. In Germany, the *Arbeitsgerichte* heard some 600,000 cases in 2007<sup>13</sup>. In the Netherlands, the number of dismissal cases alone amounted to around 70,000 in 2002<sup>14</sup>. Second, there is the rate of change. Here the UK stands out. As Table 7.4 shows, the number of cases has risen considerably since the introduction of Employment Tribunals in 1965. In the 1970s and 1980s, the number rarely exceeded 40,000 per annum; by 1995, it had grown to 100,000 – a level that has been exceeded in several years since<sup>15</sup>. In the other EU member countries, by contrast, the number of such disputes has been relatively stable or declining. In Germany, for example, the number of case fell by around a third between 1997 and 2007.

#### *Other expressions of conflict*

Evidence from the UK suggest that only a minority of employees experiencing a problem at work choose any kind of formal approach to addressing their complaint. For instance, one review reports that only a quarter (24 per cent) of those who had experienced a problem at work had put their concern in writing to their employer and just three per cent had brought an ET case as a result of their complaints<sup>16</sup>. No data are available for the other countries, but it is likely that only a minority of problems similarly go beyond the workplace – in Germany, the Netherlands and Sweden especially, most individual grievances would seem to be resolved in the workplace either by works councils (Germany and the Netherlands) or discussions between management and trade union officials (Sweden).

The one other expression of conflict for which internationally comparative data are available is that of sickness absence. As Bonato and Lusinyan observe on the basis of Eurostat *New Cronos* data,

In the period 1995–2003, the share of employees [in Europe] on sickness leave was 2.8 per cent, on average, which is very close to the 2.6 per cent registered in the United States ... There are wide differences across countries, however. Absence seems to be particularly high in the Netherlands (6 per cent), Sweden (5.2 per cent), Norway (5.0 per cent) and the United Kingdom (3.9 per cent)<sup>17</sup>.

The figures for France and Germany, the other countries included in the comparison in the Appendix, were 2.9 per cent and 1.5 per cent respectively.

In percentage terms these figures do not amount to very much. In absolute terms, it is a different matter. Thus in the UK, fifty times as many days have been lost through absence in some recent years as through strikes. Absenteeism, according to the CBI, costs around £12.2 billion each year<sup>18</sup>.

In most countries, Bonato and Lusinyan found that public sector employees were more likely to be on sick leave than those in the private sector, which to some extent reflects the large proportion of women in public employment. The difference in sickness absence between public and private sector is also wider in countries characterised by high overall absence. In Nordic countries, where the share of public sector employment is particularly large, this ‘composition’ effect was deemed to be quite important.

The review also confirmed that labour force characteristics are important in determining sickness absence. In particular, good health - proxied by life expectancy - and low labour force participation reduce absence. But age shows no significant independent impact. Gender is also important, with women more likely to be on sick leave than men. Working time arrangements have a significant impact too. In particular, while more flexibility—measured by the share of part-time employment and flexible working time arrangements—helps to reduce sickness absence, longer usual hours of work tend to increase it. The results also suggest that more flexible work arrangements reduce the impact of long working hours on attendance.

It seems that absence levels do not change very much from year to year. There is some evidence, though, that they are procyclical in some countries. This is true, for example, of the Netherlands and Sweden, where there is a statistically significant relationship between

absence and the unemployment gap defined as the percentage deviation of the unemployment rate from its trend.

In the UK, a range of data has been used to try to measure other expressions of conflict. One indicator is provided by Citizens Advice Bureaus (CABs), who record the number of employment-related problems raised with it bureaux each year. Another comes from the British Social Attitudes Survey (BSAS). Since 1983 it has asked employees working 10 or more hours per week to rate relations between management and other employees at their workplace. WERS has asked a similar question of workplace managers in each of its five surveys. There is also a measure of overall job satisfaction, available from the British Household Panel Survey each year since 1991,

The validity of tracking such attitudinal ratings of the employment relations climate over time can be questioned. As a recent review of the evidence points out, however, it is striking how uniform the message coming though appears to be. Employment-related problems reported to the CABs peaked in the mid-1990s. Similarly, whilst there are some fluctuations in the BSAS series from year to year, the prevalence of poor relations seemed to have risen in the BSAS through the 1980s and early 1990s, to reach a high point in the mid to late-1990s. A measure of overall job satisfaction, available from the British Household Panel Survey each year since 1991, also shows a peak in dissatisfaction in the mid-1990s, with another following in the late 1990s<sup>19</sup>.

The reasons for this trend have not been firmly established. One study attributes the decline in job satisfaction in the mid to late-1990s to a decrease in task discretion and an increase in work intensification<sup>20</sup>. Data from BSAS point towards improvements in management style since the mid-1990s, which may well have contributed to better relations. A question which asks employees whether 'management always try to get the better of employees if they get the chance' is available only intermittently since 1984 but follows a broadly similar pattern to ratings of climate, showing a peak of discontent in mid to late 1990s. Responses to a question asking whether 'the workplace is well managed' follow the same broad pattern, with ratings falling between 1983 and 1993/4 and rising thereafter. There is also some evidence to suggest that material features of people's jobs – and thus some potential sources of discontent – improved in the decade since the mid-1990s. Fitzner, for

example, presents evidence of a decline in the risk of redundancy, a reduction in average working hours, and widespread gains in real wages over the past ten years<sup>21</sup>. However, as previous chapters have suggested, circumstances have changed in the wake of the financial crisis – in the words of the *Acas Policy Discussion Paper* already quoted, ‘Growing unemployment, downward pressure on wages and greater uncertainty over job security inevitably increase the strain on workplace relationships and the potential for conflict’<sup>22</sup>.

## **Challenging questions**

### *A substitution effect?*

An initial question that is begged by the preceding discussion is whether the different expressions of conflict are substitutes for one another; whether, in particular, individualised conflict is the ‘flipside’ of the decline in union power and collective action<sup>23</sup>. Certainly, in the case of the UK, Tables 7.3 and 7.4 appear to suggest that the growth in ET applications is the mirror image of the decline in collective disputes. Moreover, these trends taken together bolster arguments that the fall in trade union membership and coverage of collective bargaining has refracted in the wider individualisation of the employment relationship.

Yet closer inspection of the data suggests that this portrayal may be over-simplistic. None of the other countries, it will be recalled, has experienced an increase in individual disputes going before the formal machinery. The relationship in the UK is also far from straightforward. For it is not just a case of the actors being different, but also the issues. Except in rare cases such as a walkout in support of sacked colleagues, collective action has typically been prompted by concerns about pay levels, other general terms and conditions, and redundancies. In contrast, ET claims have typically been concerned with underpayment (rather than levels) of wages, unfair selection for dismissal or discriminatory behaviour. Furthermore, ET claims are rarely brought in the context of a continuing employment relationship. In the case of unfair dismissal claims, for example, re-employment has long been regarded as the ‘lost remedy’.

It remains to be seen whether this pattern is changing. The recent growth in multiple ET cases involving a single issue (or set of issues)

affecting a number of people in the same workplace or organisation suggests it might be. Indeed, the Gibbons report into dispute resolution attributes the growth in multiple cases directly to collective issues, commenting that the rate of such cases ‘fluctuates substantially because it is heavily influenced by large scale disputes’<sup>24</sup>. The equal pay ‘multiples’ described earlier, many of which are union led, are the most notable example.<sup>25</sup>

### *The role of institutions*

A second question concerns the role of different institutional arrangements in either promoting or resolving underlying feelings of discontent. Conflict can be ignored, suppressed or resolved as well as lead to disputes. Other things being equal, though, it is more likely to evolve into a dispute when there is a recognised vehicle for articulating concerns that employees believe offers the prospect of resolving the issue at stake. If there are no collective disputes or grievance procedures, workers are less likely to be able to raise their concerns within the workplace and so are more likely to ‘resolve’ the conflictual situation by quitting. In the UK, the WERS evidence from sectors such as ‘Hotels and restaurants’ and ‘Other business services’ supports this point. Workplaces here not only register the lowest levels of grievances and ET claims along with the lowest levels of grievance procedures, but also report above average rates of voluntary resignations<sup>26</sup>.

The UK evidence also supports the idea that workplace representation encourages the internal resolution of disputes. Thus, workplaces with representative ‘voice’ arrangements involving trade unions report much higher levels of collective disputes and grievances than those that do not. By contrast, the average rate for ET claims per 1000 employees is much lower in unionised workplaces than non-unionised ones.

As for the association between ‘voice’/‘agency’ mechanisms and other expressions of conflict, WERS suggests that that representative ‘voice’ arrangements are associated with comparatively low rates of disciplinary sanctions and resignations, whereas the opposite is true of workplaces with no voice or non-union ‘voice’. On the other hand, perhaps more surprisingly, workplaces with no ‘voice’ or non-union ‘voice’ report lower levels of absenteeism. Arguably, it is the greater

exposure to the dynamics of workplace debates, together with their awareness of the possibility of conflict and disputes, that also helps to explain the higher proportion of employees in these 'voice' workplaces reporting 'poor' or 'very poor' relations between managers and employees. Overall, it seems that workplaces with no 'voice' mechanisms are characterised by strong disciplinary regimes in which the main expression of conflict takes the form of employees exiting from the organisation.

Looking across countries, one issue is the relationship between the pattern of strikes and the level of collective bargaining – in particular, whether it is multi-employer or single-employer. Other things being equal in countries characterised by multi-employer bargaining strikes tend to be rarer but larger, reflecting the number of workers covered by collective agreements. A similar pattern is observable in the public sector in the UK. There also appears to be an association between the pattern of strikes and the role of the state. In the 'Latin' countries of France, Italy and Spain there is a stronger tradition of the 'demonstration' stoppage designed to promote government intervention, helping to explain the relative size of strikes.

As for the incidence of individual disputes, perhaps the most striking, if not surprising, conclusion turns on the balance between reliance on legal regulation as opposed to collective bargaining. The greater the reliance on legal regulation, it seems, the greater the incidence of tribunal and labour court applications. Germany, France and the Netherlands, for example, have very high levels of applications. In Sweden, on the other hand, where collective bargaining is the more accepted way of doing things, there is proportionately much less resort to the court system - the numbers are in the hundreds rather than the many thousands of the other countries<sup>27</sup>. Historically, the UK was closer to Sweden – the tribunal system did not come into being until 1965. Increasingly, however, as Table 7.4 suggests, the UK has moved closer to those countries with a longer tradition of legal involvement in the handling of individual disputes.

In discussing the causes of sickness absence, Bonato and Lusinyan find a strong connection between the levels of absence and the generosity of sickness and the unemployment insurance system<sup>28</sup>. They go on to suggest that, in Sweden, the relationship is substantially

stronger than the cross-country average, more than twice as large. Absence is also lower when employers bear larger costs of sickness insurance. Characteristics of labor market institutions affect the absence rate in different ways, both directly and through their interaction with the business cycle and sickness insurance provisions. Employment protection has a significant positive impact on absence rates both directly and when interacted with the unemployment gap.

*Why the decline in strike activity?*

A third and especially challenging question is why the trends in disputes have taken the pattern they have and why, in particular, there has been such a significant decline in collective disputes. The following paraphrases Scheuer's summary of the explanations suggested in the literature:

*Labour law and changes in the legal framework.* In the UK, there has been a great deal of emphasis on the legal dimension - the programme of legislative change to restrict the activities of trade unions, instituted in Britain under the Thatcher governments in the 1980s. In Metcalf's words, 'the strike threat ... was weakened by a succession of laws which permitted a union to be sued, introduced ballots prior to a strike, and outlawed both secondary and unofficial action'<sup>29</sup>. However, whilst legislative change may have played some part, the fact that most countries have also experienced substantial falls in collective disputes over this period suggests that other factors were also at work. As Chapter 9 argues, there is also a case for suggesting that it is not so much legislation dealing with trade unions and collective bargaining that has had influenced strike activity. More important has been legislation dealing with individual employment rights: 'juridification' has encouraged a shift away from 'collectivism' towards 'individualism'.

*Declining trade union density.* The most evident explanation for the decline in strike activity is the general weakening of trade union organisation that is discussed in more detail in Chapter 9. Yet it cannot be the only explanatory factor. For even in countries where trade union membership has been relatively stable, such as Sweden, strike levels have dropped significantly.

*Declining collective bargaining coverage:* Certainly there has been a decline in the coverage of collective bargaining in some countries as Chapter 9 also describes in more detail. But such decline is by no means universal because of legal provisions for extending the terms and conditions of collective agreements. Furthermore, countries such as France and Germany have high levels of collective bargaining coverage, but their levels of industrial conflict vary substantially.

*Unemployment levels.* Unemployment may have played a role in earlier periods<sup>30</sup>. Judging from the patterns, however, it is clear that neither the decline in industrial conflict nor the cross-national variation can be adequately explained by unemployment levels. While industrial conflict fell in concert with increasing unemployment in the 1970s, the recovery of employment in the 1980s and onwards was not accompanied by increasing strike activity, neither generally nor in those countries benefiting most from labour market improvement.

*Sectoral and occupational changes.* It has long been argued that the shift from manufacturing to services, along with the associated trend in employment from manual worker to salaried employee, adversely affects solidarity and militancy. In practice, however, increased public employment may have increased the tendency to strike (because of the centralisation of collective bargaining and a high degree of employment security); conversely, increases in the private service sector and the 'knowledge economy' may pull in the opposite direction. Increasing privatisation may have contributed to a downward trend in strikes, but this can only have been a major factor in recent years.

*Globalisation.* The strengthening of the EU internal market, together with the gradually increasing liberalisation of global trade through the World Trade Organisation, entails less state protection and state financial intervention to safeguard employment. Consequently, striking for state support for ailing producers such as shipyards has much less appeal. At the same time, globalised competition means that, should they strike, employees may see their jobs going 'off-shore' to lower cost countries. That said, there is no evidence that differential exposure to international economic forces can help explain cross-national variations in WDL. In the UK, trade liberalisation and globalisation would appear to have been especially important in

accounting for the decline of collective disputes in manufacturing. Intensifying competitive pressures in an increasingly global market place not only helps to explain the demise of many of the larger workplaces where collective action took place, such as in the automotive sector, but also a decline in such action in the workplaces that remain. Survival has become the name of the game, raising the cost of collective disputes to both employers and employees.

*Individualisation.* A change in the balance of risks and opportunities may make strikes a less attractive option for employees who are more individualistically oriented, with a higher estimate of the sacrifices involved and a lower expectation of gains. If this is the case, however, the increase in individualisation has to be explained, which means taking into account the other factors that have already been considered.

*Embeddedness.* This takes us back to Chapter 4 and the discussion of ‘path dependency’. Scheuer puts the point like this,

national traditions of either high or low conflict may become established over time and shape the behaviour of the industrial relations actors. Within countries, one may likewise observe such learned patterns in particular companies or industries ...

Institutional factors may be judged to play a substantial role: legal–regulative institutions affect the dynamics of industrial conflict, while normative or cultural–cognitive institutions play a role in explaining national variation. In sum, strikes are often based on and have to be understood as rational calculations, embedded in an institutional system, which to a large extent affects the actual calculation: not necessarily economic, however, for calculations may be value-based<sup>31</sup>.

Turning to individual disputes, it is the seemingly inexorable rise of ET cases in the UK that stands out. Arguably, it is here that the law has played a critical role, with what has been termed the ‘explosion’ in individual employment rights extending the effect of legality into areas of the employment relationships which had previously been a matter of voluntary determination<sup>32</sup>. The expansion, which reflects developments in the EU’s social dimension as well as British governments’ domestic agendas, means that more areas of working life and more employees are covered by the law, as they have been for

much longer in the other countries. At the beginning of the 1980s, there were around 20 individual employment rights under which an employee may bring a claim. By 2008, there were in excess of 60<sup>33</sup>. Yet it is not just the growth in rights that has contributed to the rise in claims, but frequent changes in the law stemming from the ‘uncertainty’ experienced by employees and employers about their respective responsibilities and obligations. Moreover, those rights which have been introduced also rarely involved a collective representation role in their enforcement, thereby contributing to the individualisation of the employment relationship<sup>34</sup>.

But underlying considerations were almost certainly also of relevance. These include a greater awareness of the system encouraged by landmark cases attracting considerable press attention. Telling here is that the rise in applications does not just reflect an increase in the number of employment rights. The incidence of those claims against underpayment of wages, breach of contract and unfair dismissal (though the latter is subject to greater fluctuation) which continue to be the main issues of contention, has risen even if their overall proportion has fallen. As Burgess and his colleagues suggest, it is difficult to escape the conclusion that a key factor has been an increase in the average value of awards over the period - in part due to the raising of the ceiling of awards and, in the case of discrimination, the lifting of any ceiling to comply with European law<sup>35</sup>.

**Table 7.1 Annual average WDL per year in 15 European Countries by decade, 1970–2003<sup>36</sup>**

Period	Dependent employment (000)	WDL (000)	Simple average	Weighted average
1970–79	115,342	48,280	351	419
1980–89	129,807	25,947	175	200
1990–99	147,640	8,278	70	56
2000–03	142,511	7,257	44	51

Note: Simple average is average of averages of countries (disregarding country size). Weighted average is calculated on aggregate numbers, as shown in the table. Countries are those with available data for almost the whole period: Austria, Belgium, Denmark, Finland, France, Germany (Western Germany until 1993), Ireland, Italy, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom.

EMPLOYMENT RELATIONS MATTERS

**Table 7.2 Annual average strike participation per 1000 employees, 1970–2003<sup>37</sup>**

Country	1970–1979	1980–1989	1990–1999	2000–2003
Denmark	41.4	39.5	39.6	26.3
Finland	174.5	136.0	38.3	28.2
Norway	4.0	13.6	10.2	11.4
Sweden	4.9 2	8.4	7.4	5.4
Ireland	34.2	37.3	11.9	12.3
UK	70.6	47.7	8.5	14.1
Austria	na	4.2	4.9	2.7
Germany	na	na	4.3	3.7
Switzerland	0.3	0.2	0.8	3.7
France	90.2	6.5	0.8	0.6
Belgium	23.3	7.8	3.4	2.8
Netherlands	5.1	3.8	4.7	3.0
Portugal	na	17.7	17.8	8.6
Italy	491.4	318.9	91.3	112.9
Spain	221.0	271.3	173.3	162.8
Average	96.8	66.6	27.8	26.6

**Table 7.3 The changing pattern of strikes in the UK<sup>38</sup>**

In the 1970s and the 1980s, official statistics showed a decline in strike activity, with this being seen most obviously in the falling number of stoppages. The number of working days lost also showed a decline, albeit with a shallower gradient, if one excludes the ‘spikes’ in the series caused by the ‘winter of discontent’ and the miners’ dispute (which alone accounted for over 80 per cent of days lost in 1984). Even so, in the late 1970s and early 1980s, the average number of days lost per year stood at around seven million working days in official records, or 300 days per 1000 employees. Each successive year between 1986 and 1994 registered the lowest number of stoppages since World War 2, however, with the numbers of stoppages and working days lost stabilising at these historically low levels since 1994. Thus, by the early years of the twenty-first century, days lost to officially-recorded stoppages stood at around 0.5 million per annum or just 20 days per 1000 employees.

In the 1980s, the first two Workplace Industrial Relations Surveys (WIRS) surveys showed the extent to which strikes were either concentrated or dispersed across workplaces in the economy. The first survey showed that one in ten workplaces (11 per cent) had experienced some strike action in the year 1979-1980 - one in five in private manufacturing and one in seven in the public sector, but fewer than one in twenty in private services.

These data also show that, in 1980, manufacturing establishments accounted for almost two-fifths of all workplaces experiencing strike or non-strike action, but less than one fifth in 1984. Public sector workplaces, in contrast, had become more prone to industrial action. Having accounted for one half of all workplaces experiencing such action in 1980, they accounted for over two-thirds in 1984 – a dominance that they retain to the present day.

The third WIRS in 1990 and the fourth in 1998 confirmed the steep decline in strike action - the overall proportion of workplaces experiencing any form of industrial action came down from one in eight to just one in fifty. The receding power of trade unions in the private sector was one part of the story, but not obviously to any greater extent than in previous periods. More notable in the 1990s, it seemed, was the changing experience of the public sector. Here, 34

## EMPLOYMENT RELATIONS MATTERS

per cent of workplaces reported some form industrial action in 1990, but in 1998 that figure stood at just 5 per cent.

The period since 1998 has seen relative stability in the survey estimates of the incidence of strike action among private sector workplaces, with the percentages experiencing either official or unofficial action standing at or below 2 per cent in both private manufacturing and private services. There was, however, a rise in the public sector between 1998 and 2004. One in seven public sector workplaces experienced industrial action in the year preceding the 2004 survey, commonly a strike or employees' 'working to rule', compared with one in twenty in 1998. This helps to explain the most notable trend in official statistics in recent years, which has been the rise in the number of workers involved per stoppage. This has arisen as the result of the decline in private sector stoppages, with national public sector disputes now dominating the statistics to a greater degree than ever before.

**Table 7.4 The changing pattern of Employment Tribunal cases in the UK<sup>39</sup>**

Following the introduction of unfair dismissal legislation in the 1960s, there was a steady growth in ' case load, with the total volume of applications growing four-fold to just over 41,000 by 1980. These were located largely under unfair dismissal and redundancy pay jurisdictions, though claims relating to equal pay and to sex and race discrimination were also within the ETs' scope. The 1980s saw a small downward trend with applications falling to 29,000 in 1988. Here the steady growth in cases relating to equality issues plus a new right to claim against infringement of wages payments was offset by a small decline in unfair dismissal cases. In the 1990s, there was considerable overall growth, with cases soaring to in excess of 100,000 by 1999 and reaching 130,000 in 2000/2001. It was during this period that employees were given new rights to bring cases relating to Breach of Contract, and discrimination on grounds of disability (1995) and age, sexual orientation and religion or belief (2006). Applications have remained high, albeit with fluctuations, peaking again in 2006/7 when 132,500 applications were registered.

Perhaps not surprisingly, the subject matter of applications has changed with the coming of new rights. In 1986, unfair dismissal represented three quarters of claims and in 2008, 40 per cent. In the same year, discrimination cases around 15 per cent of all applications. There has also been an increase in the volume of applications involving more than one issue. In 1998, according to Acas' Annual Report, just under half of all applications in the preceding year had two or more jurisdictions, compared with only around one third in the year before that. In 2006/7, 132,500 registered claims covered a mix of 238,500 jurisdictions or an average of 1.8 per claim.

Another indicator of complexity is the level of representation. In the mid-1980s around four in every ten applicants were represented. Twenty years later, according to the 2004 'Survey of Employment Tribunal Applications' (SETA), 55 per cent of applicants and 59 per cent of employers had a representative handling their case, whilst most others had sought active professional support.

A further feature of the current caseload is the incidence of multiple claims involving more than one applicant bringing the same case against the same employer. In 2005/6, 55 per cent of the total

## EMPLOYMENT RELATIONS MATTERS

claims received were multiple claimant, a sizeable proportion of which related to equal pay claims brought against local authorities in relation to the 1997 national agreement to seek 'single status' of pay across employees.

Overall, the WERS series suggests that, in spite of the growth, ET claims affect only a minority of workplaces. Between 1980 and 1990, around 10 per cent of workplaces with twenty five or more employees experienced a claim in the year preceding the survey, the figure rising to 13 per cent and 15 per cent in subsequent WERS. WERS data also accord with other sources in suggesting that it is medium-sized businesses that generate a disproportionate share of claims. The suggestion is that medium-sized organisations are caught between two posts, being disadvantaged by the absence of the close working relationships characterising small firms yet at the same time not benefiting from the formality of the larger ones.

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## 8

### Understanding management

#### Main tasks

- **Understand why there has been far less change in work organisation than many pundits expected**
- **Discuss the nature of management's role – whether, in particular, management is a 'strategic actor' or a 'systems actor'**
- **Highlight the reasons for and consequences of the 'permanent restructuring' that characterises management behaviour in recent years**

#### Summary

It is management, defined as a group of people with responsibility to the board of directors or its equivalent for running the organisation, which exercises the discretionary rights that are the employment relationship's distinguishing feature. Historically, in comparison with trade unions and the state, management seemed to be a relatively unproblematic, if not unimportant, employment relations actor. Seemingly, it had settled for a particular way of doing things and to be more concerned with maintaining the status quo than changing it. Increasingly, however, there is a consensus that management has become the major force for change in the arrangements governing the employment relationship, reflecting increasing competition in capital as well as product markets. The nature and extent of change, however, are far from straightforward. At workplace level, there is little evidence of the changes in work organisation and strategic approach that a wide range of commentators expected and/or have called for. At company level, the situation is very different. Developments such as

‘divisionalisation’, ‘budgetary devolution’ and ‘marketisation’ have resulted not just in radically different ways of controlling workplaces, but also fundamental changes in the shape and size of companies. Coupled with the emphasis on ‘shareholder value’ that developments in ‘financialisation’ are encouraging, the result is more or less ‘permanent restructuring’ making it difficult to develop any consistency of approach. Employees are also being required to work harder at the same time as the security associated with the traditional model of the employment relationship declines. The extent of these changes nonetheless differs from one country to another reflecting the different the ‘varieties of capitalism’ and legal systems. This is because management is not so much a ‘strategic actor’ as a ‘systems actor’. It is an agent of the prevailing form of capital, driven by a logic of efficiency, but influenced by the interplay between two sets of deeply embedded institutions: on the one hand, those of employment relations and, on the other, those of corporate governance and finance. Arguably, of these two sets, it is the second that is the more important, becoming ever more so with the development of a global market for capital.

### **Introduction: the ‘great conundrum’**

The term ‘management’ can be used to refer to three very different things: a process, i.e. planning, controlling, co-ordinating, developing, motivating, leading etc; a resource that brings together land, labour and capital to produce goods and services; and a group of people, comprising a range of positions from that of supervisor through to chief executive, with responsibility to the board of directors or its equivalent for running the organisation<sup>1</sup>. The primary focus in employment relations is on the third of these - it is managers who exercise the discretionary rights that are the employment relationship’s distinguishing feature. As Chapter 4 pointed out, there are three main areas where the managerial hierarchy finds expression. Most attention focuses on personnel policies and practice, which covers recruitment and selection, training, appraisal, reward and discipline. Also important, however, are decisions about the nature of work organisation and the wider arrangements for the coordination and control encapsulated in the term ‘organisation structure’.

Historically, as Chapter 4 pointed out, most employment relations commentators paid no more than perfunctory attention to management's role. By comparison to trade unions and the state, management seemed to be a relatively unproblematic, if not unimportant, actor. Three main types of control emerged reflecting the thinking of the likes of Weber<sup>2</sup>, Fayol<sup>3</sup> and Taylor<sup>4</sup>, together with the experience of 'command and control' in the armed forces: 'direct control' via supervision, 'technical control' in form of machine-paced technology, and 'bureaucratic control' involving rules and procedures. For the most part, the day-to-day exercise of these controls was largely seen as an administrative function involving first-line supervisors supported by relatively low status personnel managers, many of whom were involved in welfare activities.

It was fear of 'organised' or collective conflict that ensured that the management of the employment relationship figured prominently on companies' agendas, helping to explain why management-trade union relations came to comprise the core of industrial relations studies. In some cases, for example in the USA, the determination to keep trade unions out of the workplace was a major factor in the development of welfare practices<sup>5</sup>; in others, such as Germany, employers supported alternative 'company unions'. In the UK, where craft unions were able to entrench themselves in the workplace in industries such as engineering, management resorted to lock-outs to impose 'procedures for the avoidance of disputes'. In most countries, prodded and prompted by governments anxious to institutionalise conflict, management agreed to make many of the rules and procedures of 'bureaucratic control' the subject of collective bargaining with trade unions as a means of legitimating their authority. For reasons that Chapter 4 explained, this was above all true at moments of political and economic crisis such as the periods following the two World Wars, in the case of the European countries, or the depression years of the 1930s in the USA. Yet such agreement was not unconditional: collective bargaining involved a process of mutual recognition in which trade unions were de facto required to recognise management's right to manage. Seemingly, management was not unhappy with these arrangements – in the years that followed, most of the focus centred on maintaining the status quo than changing it. To paraphrase Dunlop, management was one of a number of actors

working within an *industrial relations system* of institutions, processes and rules shaped by technology, markets and the balance of power in the wider society: it was assumed to share the same interests or 'ideology' of the state and trade unions in having a relatively stable framework within which it could get on with the tasks of planning, controlling and co-ordinating the business' activities<sup>6</sup>.

From the 1980s, as Chapter 4 suggested, interest in management moved centre stage reflecting the view that it had become the major force for change in the arrangements governing the employment relationship. A widespread consensus seemingly emerged among analysts, governments and international agencies about the why and wherefore of this development: management had to modify the traditional control structures associated with hierarchy, bureaucracy and specialisation because of the changing nature of competition. The starting point was the recognition that people were not simply one of the factors of production along with money and machinery, but the major source of competitive advantage – in the UK, *People: the Key to success* was the title of a 1987 National Economic Development Office/Manpower Services publication. The prescription implied not just a change in beliefs and assumptions. In the case of work organisation, increasing employees' participation in the design of work processes was recommended, along with the sharing of task-specific knowledge, with the emphasis on semi-autonomous team working with managers assuming the role of enablers and developers. In the case of personnel policies and practices, the emphasis was to be on 'high performance working' – coupling team working with individualised training and development, along with performance management linked to reward systems to enhance commitment and involvement. The specialist function was also to drop its 'Cinderella' image and shift from the largely administrative role associated with personnel management and take on responsibility for ensuring a more strategic approach that aligned policies and practices with business strategy.

Much of the thinking had its roots in the neo-human relations school associated with the likes of Maslow<sup>7</sup>, Herzberg<sup>8</sup> and McGregor<sup>9</sup>. This recognised that labour was not a commodity and motivation was management's main problem. Also increasingly important was the 'resource based view' discussed in Chapter 3. It

was the changing context of business, however, that provided the main impetus. Especially important here was the growing dominance of Japanese companies in highly visible sectors such as cars and electronics arising from their use of new 'lean production' methods such as 'just-in-time', *kaizen* ('continuous improvement'), and the direct participation of the workforce. Bearing in mind the emergence of low cost manufacturers, above all in China, the *status quo* was deemed to be unsustainable: the future lay with quality products and a quality workforce. Moving into the new millennium, intensifying competition and/or pressure on scarce resources, coupled with the growing importance attached to the notions of the 'knowledge organisation' and 'knowledge economy', supposedly reinforced these imperatives - more and more companies would be forced by competitive pressures to increase the sophistication of their products and services, requiring them to transform their workplaces<sup>10</sup>.

In practice, however, even allowing for the cross-national differences discussed in Chapter 2, most features of work organisation have proved to be extremely durable. In over-viewing developments, one commentator puts it like this:

When compared with the momentous changes we've witnessed over the past half century in technology, life styles, and geopolitics, the practice of management seems to have evolved at a snail's pace. While a suddenly resurrected 1960s era CEO would undoubtedly be amazed by the flexibility of today's real-time supply chains and the ability to provide 24/7 customer service, he or she would find a great many of today's management rituals little changed from those that governed corporate life a generation or two ago. Hierarchies may have gotten flatter but they haven't disappeared. Front-line employees may be smarter and better trained, but they're still expected to line up behind obediently behind executive decisions. Lower-level managers are still appointed by more senior managers. Strategy still gets set at the top ...<sup>11</sup>

For the UK, Table 8.1 summarises the detailed results of the 2004 Workplace Employment Relations Survey (WERS), which are consistent with the findings of the European Foundation's working conditions surveys outlined in Chapter 2. There is certainly little

evidence of autonomous team working and the bundles of practices associated with 'high performance working'; the number of workplaces with a comprehensive strategy also appears to be very small. Although there appears to be a new breed of HR managers, who are better qualified and have greater responsibilities, there are few signs of them getting a seat at the top table. At the same time, however, it appears that there has been a considerable increase in performance management; there is also a close relationship between those that adopt a more strategic approach and two key variables: the extent of changes taking place and the significance of labour costs.

### **'Systems actor' rather than 'strategic actor'**

Arguably, the main reason for failing to understand what was happening or, rather, not happening, was that observers were looking at management through the wrong lens. For much of the 1980s and 1990s the conventional wisdom was to see management as a 'strategic actor'. In part, as Chapter 1 pointed out, this reflected a growing recognition that the original systems model of industrial relations associated with Dunlop was seriously limited – industrial relations could not be treated as a self-contained world in isolation from wider society, while management behaviour could not simply be explained in terms of its dealings with trade unions and governments. In part, it reflected the growing importance being attached to 'strategy' and 'strategic choice' in the social sciences more generally<sup>12</sup>. Thus, rather than being regarded as members of an interlocking employment relations system working to its own internal logic, management, trade unions and governments came to be seen as 'agents' who shape the environment in which they operate and who are also influenced by forces from outside the world of employment. By implication, the environment does not determine behaviour; the parties - above all, the management of the large companies - have some discretion or choice in deciding what courses of action or strategies to follow. As Chapter 4 suggested, the most explicit use of the 'strategic choice' approach is to be found in the work of Kochan and his colleagues in the USA, where it was almost elevated to the status of a theory<sup>13</sup>. Management is seen as a strategic actor in two particular senses: its actions are held to be critical not only in determining the choice of business strategy to

be pursued, but also the main changes taking place in employment relations.

Although the approach's focus on the purposive behaviour of the parties, rather than on the outcome of some form of autonomous system working to its own logic, was a positive step, it arguably made a number of highly questionable assumptions. One is that strategy formulation is a straightforward process. But, as business theorists have increasingly recognised, strategy is a most problematic concept<sup>14</sup>. At best, strategies, understood as a sense of a direction, emerge as a result of a series of decisions made by people at many levels in the organisation; they involve continual reassessments and readjustments of position. Depending on the particular ways in which management runs the organisation, strategies, in the sense of a set of medium- and long-term plans, may not emerge at all; there may simply be a series of vague statements or a few key financial ratios. In the circumstances, it may not be feasible to expect the detailed integration of personnel policies and practices implied in the prescription of Kochan and his colleagues, let alone the fundamental shift in attitudes and behaviours entailed, for example, in managing a change in culture or task participation.

A second, crucial, assumption is that managers have the degree of choice with which they are credited. Clearly, managers, especially those who run large private sector companies, have enormous resources at their disposal and a significant measure of control over large numbers of employees. Yet they still may not be willing or able to shape their environment in ways that may seem logical to the analyst. To go back to the discussion in Chapter 4, management is not immune to the pressures of 'path dependency'. Each of the three considerations regarded as particularly important in explaining why people can become 'locked' into a particular path are in play. Thus, a major consideration in the introduction of 'high performance working' is the costs associated with change in terms of training and learning. The existing institutional framework also represents a major problem - the introduction of 'serious' team working has significant implication for almost every aspect of personnel policy, ranging from recruitment and selection, through training and development to appraisal and reward. Finally, there is the importance of vested interests. Very often it is managers themselves who represent the biggest barrier to changes

in work organisation. Major changes in the direction of semi-autonomous team working, for example, not only have implications for the inter-personal skills of individual managers, but also their numbers, privileges and status as a group. Arguably, it is for a combination of these reasons that most major instances of change involve crisis situations and/or 'greenfield' situations.

Important though 'path dependency' is in understanding why even management finds it difficult to change, it does not help us very much to explain the differences between countries identified in previous chapters. For this, it is necessary to develop another strand of the 'varieties of capitalism' thinking introduced in Chapter 3. This is that the trajectories of capitalist development not only give rise to institutions that are interdependent, but also different 'configurations' that have particular strengths and weaknesses for different kinds of economic activity. Thus, the interdependency may rise to so-called 'complementarities', where institutions in different areas (for example, the financial system and the corporate governance arrangements) come to be mutually reinforcing; equally, they may also involve 'tensions' that may have destabilising or adverse economic effects (for example, the role of the state and the financial system). It is within these 'complementarities' and 'tensions' that managers have to work<sup>15</sup>.

The starkest contrast is drawn between the two main types of capitalism outlined in Chapter 3 and revolves around the extent to which the economy is, or is not, 'coordinated': the 'stakeholder' or 'insider' systems found in the 'co-ordinated market economies' (CMEs) of the continental European countries and the 'shareholder' or 'outsider' systems characteristic of the 'liberal market economies' (LMEs) of the USA and UK. In the CMEs, the emphasis is said to be on non-market relations, collaboration, credible commitments and deliberative calculation on the part of firms. In terms of behaviour, enterprises embedded in 'insider' systems are said to be likely to emphasise longer-run performance, and to pursue investment strategies which involve long-term commitments to product and process innovation and associated skill development. In contrast, the essence of the LMEs is described in terms of 'outsider' systems, with arms-length, competitive relations and formal contracting, resulting in much more emphasis on short-run financial performance and the

adoption of investment strategies which are driven by purely financial criteria<sup>16</sup>.

Such differences shape the implicit contracts, comprising informal understandings on issues that are difficult to contract for formally, reached between the parties. In CMEs the basis exists under 'insider' systems for generating and sustaining the trust necessary to support wide-ranging implicit contracts. There are incentives both for managers to invest in skill development and for employees to acquire skills. Employees are likely to be regarded as enduring assets who form a potential source of competitive advantage. In LMEs, by contrast, the absence of employee stakeholder rights does not encourage the development of 'high trust' relationships and the implicit contracts which depend on them. Neither managers nor employees can be confident that their investments will be protected, which means weaker incentives to train or be trained. Employees are likely to be regarded as disposable liabilities and to be the focus of short-run cost minimisation by management. Proponents of the LMEs argue that fluid labour markets, together with easy access to stock market capital and the profit imperative, make LME firms the 'radical innovators' they have proven to be in recent years, in sectors ranging from bio-technology through semiconductors, software, and advertising to corporate finance. The logic of LME dynamics revolves around the centrality of 'switchable assets', i.e., assets whose value can be realised if diverted to multiple purposes. In the CMEs, by contrast, long-term employment strategies, rule-bound behaviour and durable ties between firms and banks underpinning patient capital provision predispose firms to be 'incremental innovators' in capital goods industries, machine tools and equipment of all kinds. In contrast to the LMEs, the logic of the CMEs revolves around 'specific or co-specific assets', i.e., assets whose value depends on the active co-operation of others<sup>17</sup>.

As Chapter 2 suggested, although some object to the description of the UK as an 'hour glass economy', its employment structure is nonetheless skewed towards services, which have large numbers of both high- and low-paying employees – finance is an example of the former and hotels and restaurants the latter. The UK also has a concentration of businesses in sectors with low R&D, where pay levels are likely to be low, together with high proportion that compete

on the basis of costs rather than quality and ‘numerical’ rather than ‘functional’ flexibility<sup>18</sup>.

In summary, to answer the question posed at the beginning of this section, management is a ‘systems’ rather than a ‘strategic actor’ so far as employment relations policy and practice are concerned. Indeed, its strategic choices are much more limited than may at first appear. Superficially, the nature and extent of managerial hierarchy, along with personnel policies and practices, reflect the type of product and the balance between cost and quality. More fundamentally, as Table 3.3 in Chapter 3 has already outlined, the business strategy that lies behind these reflects the interplay between two sets of deeply embedded institutions: on the one hand, the institutions, processes and rules of employment relations and, on the other, the prevailing structures of corporate governance and finance. Arguably, of these two sets, it is the second, the structures of corporate governance and finance, which is the more important, becoming ever more so with the development of a global market for capital. In that it is not just employment relations institutions that have to be taken into account, therefore, the approach is very different from the portrayal of management as a ‘systems actor’ in the original Dunlop version. Also different, as the financial and economic crisis of 2007-9 has confirmed, is that there is no shared ideology. Reality is massively contested and the power of capital in much greater evidence. It is a subject to which the next chapter returns.

### **‘Permanent restructuring’**

A further step in understanding management behaviour takes us back to the notion of ‘critical junctures’ introduced in Chapter 4 and involves appreciating the why and wherefore of the ‘permanent restructuring’ that has come to characterise developments in many large organisations in recent years, above all in the UK and USA. One source of this restructuring has been major changes in the arrangements for co-ordination and control with significant implications for the way organisations are run. The overall effect, with wide ranging implications for the management of the employment relationship, has been to exaggerate the importance of measurable results and targets. A second, and arguably even more important

source, has been the shift in emphasis from product market to capital market competition (so-called 'financialisation') leading to heightened merger, acquisition and disposal activity, with redundancy becoming the accepted way in which firms handle the consequences regardless of the overall economic situation. Indeed, 'headcount' reductions are typically put forward as a major consideration in justifying the initiative.

*From management by task to management by performance*

There have been changes in the internal co-ordination and control structures of large organisations that add up to little short of a revolution in the ways they are being managed. Above all, they involve a fundamental shift from the management by task characteristic of traditional organisational structures to management by performance. Critically, too, these changes affect the public as well as the private sector.

Three related changes in particular deserve attention:

*Divisionalisation.* This involves dividing the large-scale hierarchical organisation into a number of semi-autonomous strategic business units (SBUs) that operate as individual profit and/or cost centres that may be product and/or territory-based. In a phrase the organisation becomes 'decentralised operationally, but centralised strategically'<sup>19</sup>. Critically important is that headquarters retains control over target-setting and resource allocation, in effect operating as a 'central banker' shifting resources to and from the divisions depending on achievement of specified targets and/or return on investment. In the UK, divisionalisation has also been introduced into the public sector: for example, the National Health Service has been divided into 'Trusts', while the Civil Service has a plethora of 'executive agencies'.

*Budgetary devolution.* Budgetary devolution involves the allocation of responsibility for managing activities within financial resources or targets. Again, in the UK, it is a feature of the public as well as the private sector. Like 'divisionalisation', with which it nearly always goes hand in hand, 'budgetary devolution' can operate at a number of levels: it can relate to an SBU within a company or, an executive agency within the civil service or a trust within the NHS and also to

the internal units within such divisions – it can even involve bundles of activities. Budget formulation and control constitute one of the most important regular activities that corporate offices undertake. They establish key performance indicators (KPIs) for strategic business units (SBUs) and for managers themselves. These KPIs emphasise financial performance with corporate managers often ‘managing by numbers’ and intangible human assets and behaviour tending to be ignored since they cannot be ‘counted’<sup>20</sup>.

*‘Marketisation’*. This is a short-hand for the greater application of market principles to decision making. Externally, it is reflected in developments such as ‘competitive tendering’, ‘market testing’ and the subcontracting or outsourcing of activities previously undertaken in-house, very often involving ‘off-shoring’ to another country where labour costs are much lower. Internally, it involves the introduction of ‘markets’, with different units being regarded as ‘purchasers’ and ‘providers’ trading products and services with one another. As Chapter 3 has emphasised, it is this development that has led to the fragmentation of work and contracts, blurring organisational boundaries and the disordering of hierarchies, raising questions about the continuing validity of the traditional model of the employment relationship depending on a single employer.

Although the thinking behind these changes is not new - General Motors pioneered ‘divisionalisation’ as a means of instilling greater accountability more than 80 years ago – there are two main reasons for their growth in recent years. One is the pressure of competition, which puts a premium on managing performance. In the private sector, this comes from the process of ‘financialisation’ discussed below. In the public sector, it comes from competition for scarce resources. In both circumstances, traditional ‘management by task’ structures are said to be not only costly and inefficient but also a major barrier to the management of performance.

The second reason for the changes is the revolution in information processing facilities made possible by the coming of the microchip and associated developments in computer software. These have provided managers with instruments of arms-length control and co-ordination that are far more effective and efficient than task-based structures. More or less instant up-to-date data on activity and costs can be used not only to monitor performance against targets, but also

make 'coercive comparisons' between individual units leading to the more or less continuous stretching of targets.

*An era of 'financialisation'*

Alongside this, there is a widely held view that the approach of UK management in particular has been influenced strongly by the LME system of corporate governance, with its orientation to short-term results and treatment of employees as a cost to be minimised, rather than a resource to be nurtured and developed<sup>21</sup>. Specific features of the UK's 'shareholder capitalism' seen as important in understanding management's employment relations behavior include:

- a privileged position for shareholders and an overwhelming emphasis on shareholder value as the key business driver as opposed to the interests of other stakeholders
- a high concentration of institutional share ownership by investment trusts and pension funds which encourages a focus on short-term profitability, rather than long-term market share or added value, as the key index of business performance
- relative ease of take-over, which not only reinforces the pressure on short-term profitability to maintain share price, but also encourages expansion by M&A rather than by internal growth, while reconfiguring the corporation through outsourcing, off-shoring and restructuring to remove parts of the business from the portfolio
- a premium on 'financial engineering' as the core organisational competence, the domination of financial management over other functions and numbers driven as opposed to issue driven planning.

The pressures on company managers from these features intensified in recent years. Some idea of the sheer scale of the M&As taking place in the UK can be gauged by studying Table 9.1, which shows acquisitions by foreign-owned and domestically-owned companies over the period 1997-2006.

As Froud and her colleagues remind us, since the mid-1980s traditional M&A forms have been joined by other kinds of investment/divestment<sup>22</sup>. These include inter-business sell-offs, where ownership of a particular unit changes hands; spin-offs, where the divested part

## EMPLOYMENT RELATIONS MATTERS

of the company is floated and shares distributed to shareholders of the parent; and purchases by internal management (MBOs) or external management (MBI) buy-outs. Leveraged buyouts (LBOs), which are heavily financed by debt, have also figured.

A walk down any High Street in the UK brings life to the statistics. Even before the banking and financial crisis of 2007-9, many building societies had become banks and part of larger groups. Abbey National now belongs to Spain's Banc Santander, Cheltenham and Gloucester to LloydsTSB, and the Woolwich to Barclays, while Halifax is part of a wider group involving the Bank of Scotland. The banks themselves have not been immune: Natwest is part of Royal Bank of Scotland Group and the Midland has been absorbed by HSBC.

In manufacturing, the changing landscape is, if anything, even more dramatic. Many companies that were once household names have simply disappeared. Courtaulds, the chemicals/textile manufacturer, was split into two independent companies in 1990 that were subsequently absorbed by Akzo-Nobel and Sara Lee respectively. Lucas Industries, the engineering company, merged with the USA's much smaller Verity in 1996, the merged company being taken over three years later by the TWR, which proceeded to divest most of the businesses. British Steel merged with the Dutch company Hoogovens in 1999 to form the Corus Group, which was brought by Tata Steel of India in 2007. GEC, the UK's largest engineering company in its day, is no more after a disastrous restructuring at the time of the dotcom boom/bust in 2001. Even the mighty bell weather of British business that was ICI has gone: a division into heavy and speciality chemicals in the 1990s was followed by absorption into Akzo-Nobel and AstraZenica respectively.

Fundamentally important is that whereas in earlier decades, market position was the main driver – be it diversification to spread risk in the 1970s or more focus ('sticking to the knitting' in Peters and Waterman's phrase<sup>23</sup>) in the 1980s - in the 1990s, financial considerations came to the fore. In the 1970s and 1980s, to paraphrase Froud and her colleagues, competition was based on product and process, most notably in sectors such as cars and consumer electronics; pressure was exerted through the product market, with consumers making firms winners or losers by virtue of their combined

purchasing power; the management challenge was represented in physical terms - 'lean production' was about better factories with lower build hours, less inventory and higher quality; and there was a leading role for Japanese companies such as Toyota whose practices were widely imitated and transplanted<sup>24</sup>. By the late 1990s, the emphasis of competition shifted to financial results in the form of current and projected cash returns on investment using cross-sector league tables such as MVA (market value added) and EVA<sup>TM</sup> (economic value added), with the returns on investment in one firm explicitly compared against all others regardless of product or sector; pressure was exerted through the capital market by shareholders via buy, sell and hold decisions; the management challenge came to be represented in narrow financial terms; and there was a renewed leadership role for US companies. Overall, a key consequence of what has come to be known as 'finanzialisation', has been to intensify the pressure on managers to increase returns to shareholders: the proportion of profits paid out to shareholders in the form of dividends and share 'buy-backs' rose from just over 40 per cent in the 1960s and 1970s to around 70 per cent in the 1980s and 1990s<sup>25</sup>.

Promoting many of these developments have been new forms of private investment funds, which have assumed an increasingly 'active' role in seeking to influence company share performance:

*Hedge Funds.* These are aggressively managed with the aim of delivering the highest returns for their members, typically wealthy individuals or professional investors such as insurance companies and pension funds. Essentially, they make sophisticated bets on the future direction of an asset or even a whole financial market. They invest in stock, bonds, currencies, futures, options, indexes, using techniques such as 'short selling' (selling borrowed securities when prices are considered overvalued to then re-purchase them after an anticipated drop in value) and 'leveraging' (borrowing money to invest).

*Private Equity Groups.* These are 'private' (as opposed to 'public') companies that typically take a controlling interest in a business with a view to delisting it from public stock exchanges, holding it private during which time they may restructure its internal organisation as well as reserve capital, and re-listing it on

the stock market through an ‘initial public offer’<sup>26</sup>. High profile businesses taken over in recent years in the UK include the AA motoring organisation, Boots the chemist, and the department store chain Debenhams.

*Sovereign Investment Funds.* These are state-backed funds that governments use to reinvest for the longer term some of the returns from depleting assets such as oil and gas. Notable examples include the Norwegian Government’s Pension Fund, the Abu Dhabi Investment Authority and the China Investment Corporation. The investment strategies of these funds tend to more long term, but they size means they can be critical in particular takeover situations.

‘Financialisation’ was not just a matter of ‘path dependency’. The immediate catalyst was deregulation of the financial sector in the 1980s (so-called ‘Big Bang’) and the accompanying globalisation of capital markets. In the UK, the ‘City of London’ was given much freer rein, with access to credit and credit markets being substantially eased across the world. The effect was to increase opportunities to borrow (leverage) on the basis of expected rises in asset values. As well as giving a very considerable boost to the activities of Private Equity Groups and Hedge Funds, it also fueled the growth of a veritable ‘industry’ of business intermediaries who derive their income from share price-related activities ranging from the buying and selling of shares to M&A. In the UK, as Folkman and his colleagues argue, while senior managers in major companies benefited considerably from the incentive schemes and share options they were encouraged to put into place, their numbers at around 500 were hardly sufficient to carry the full weight of responsibility for what was happening<sup>27</sup>. Rather it was senior investment bankers, city analysts and traders, accounting and law partners, consultants, and senior advertising and PR executives who provided much of the impetus. In the case of M&A, for example, they could typically expect to make in fees two to three per cent of the value of the transaction<sup>28</sup>. In 2003, their numbers were estimated to be around 20,000 on the basis of tax returns of those earning more than £250,000 a year<sup>29</sup>.

*Implications*

It is difficult to underestimate the impact of these changes on day-to-day employment relations in the UK. It is not just that many employees find themselves working for very different organisations from the ones they joined, with significant implications for their pay, career prospects and pensions or that some are now in jobs where the employer who pays may be different from the one who directs. As authoritative bodies such as the Audit Commission<sup>30</sup> and the of Commons Public Administration Select Committee of Commons Public Administration Select Committee have recognised in the case of public services, centralised and detailed targets, very often reflecting short-term political pressures, have considerably distorted management priorities as well as riding roughshod over local consultative processes<sup>31</sup>. More generally, the sheer pace and extent of the change that these developments have encouraged are important. Crucially, it has made it very difficult for operating managers to develop any consistency in approach to HRM, let alone create the long-term relationships that ‘high performance working’ entails<sup>32</sup>. Short-term pressures to maximise the share price or, in the case of public services, implement top-down policy changes from governments, mean that day-to-day management of organisations is constantly being disrupted. Adding to the problem in many organisations is the rapid turnover among managers – expectations raised and promises made by one manager can be quickly set aside or disabused by another. Inevitably, the time and energies of HR managers tend to be consumed in managing the operational implications of restructuring, helping to explain the significance of the extent of change cited in the previous section. Indeed, many large organisations are littered with half-finished initiatives that had to be interrupted because of M&A or divestment activity<sup>33</sup>. In these circumstances, it is not surprising that operational managers seem to be ‘muddling through’ rather than creating the long-term relationships that ‘high performance working’ entails – they cannot do much else.

The developments described here have also had implications for our understanding of the nature of management that take us back to the discussion in the previous section. It has long been recognised that management is not a homogeneous group, comprising a range of positions from that of supervisor through to chief executive. Yet the

assumption was that a common thread was present, making it possible to think in terms of a professional body of expertise involving planning, controlling, co-ordinating, developing, motivating, leading etc. For most managers directly involved in managing operations at workplace and divisional levels, this continues to be the case, albeit reconciling the conflicting requirements to cut costs to the bone and yet at the same time promote the commitment necessary for innovation becomes ever more difficult. Arguably, however, recalling the comments of the CBI's Director General in Chapter 2, 'financialisation' and 'divisionalisation' mean that, unlike their forbears, very senior managers at headquarters level are increasingly detached from these processes, along with the communities in which they take place. In Khurana's words, they are like 'hired hands', with their job boiling down to 'financial engineering' and/or target setting, coupled with extreme risk taking<sup>34</sup>.

### **Prospects for the future**

In the UK, on the basis of reports from member companies, the the same Director General of the CBI, Richard Lambert, recently suggested that there were likely to be changes in management behaviour described here as a result of the recession that engulfed the world following the financial crisis of 2007-9<sup>35</sup>. Most companies expected that, with their reliance on debt falling, there would be less focus on 'financial engineering' and more emphasis on day-to-day operations. Accompanying this shift would be a more collaborative approach with the different groups of 'stakeholders' in the business. For example, companies would work more extensively with schools and colleges to fund and design courses that were more closely aligned with their needs. R & D partnerships with universities and other businesses would also expand. Similarly, they had learnt that there were risks in focusing too much on lowest cost suppliers; they would also be working more closely with key suppliers, having learnt the hard way that their operations were being placed at risk by their financial problems - in some cases, they were thinking about financing their suppliers themselves. Concerns about operational and reputational risk, as well as rising energy and transport costs, would encourage them to bring their supply chains closer to home. A more collaborative relationship with employees was also expected. Indeed,

it was already being reflected in the ‘remarkable story of what happened to the employment numbers’ outlined in Chapter 3: output had fallen by 6.2 per cent from the peak, but unemployment was down just 1.9 per cent. All in all, the strongest messages coming through reflected their concern about business reputation and the declining trust in business. All this, suggests Lambert that the era of maximizing shareholders value might be drawing to a close. ‘Suppliers, customers, employees, communities: their interests are aligned with those of shareholders over the long term, but not necessarily over the short. If they are going to be given greater weight in business decision-making, then ideas about profit maximisation will have to change’. Here he quotes two other sources with approval. One is Jack Welch, the former boss of General Electric and one of the CEOs most associated with the concept of shareholder value, who told the *Financial Times* that he now thought it was ‘the dumbest idea in the world’. The other is Peter Drucker, the business ‘guru’, who suggested that business enterprises should be seen as ‘organs of society. They do not exist for their own sake, but to fulfill a specific social purpose and to satisfy a specific need of a society, a community, or individuals. They are not ends in themselves, but means’.

The problem, which Lambert recognises but does not have an answer for, is that the market for capital is global rather than national. He reminds us that less than half the shares in the FTSE 100 companies are now owned by UK investment institutions. Moreover, these shareholder groups tend to be heavily focused on trading and short term performance, ‘preferring to take the certainty of short term capital gains rather than the risks of longer term returns’. Nowhere were the implications more obvious, he adds, than in the hostile takeover of Cadbury’s at the beginning of 2010. Ahead of the bid, less than a third of Cadbury shares were held by the institutions that have traditionally been associated with company ownership in the UK – pension funds, unit trusts and the like. Many of these argued that it was in the best interests for Cadbury to stay independent – it was Kraft whose future prospects were more uncertain - and that Kraft’s final offer was some way short of what they believed the company was worth. Yet the takeover process took on an air of inevitability. As the bid dragged on, foreign investors started to take their profits - mainly by selling their shares to short term traders and hedge funds.

## EMPLOYMENT RELATIONS MATTERS

Lambert quotes the words of the Cadbury's chairman after the deal was completed:

At the end of the day, there were simply not enough shareholders prepared to take a long term view of Cadbury and prepared to forego short-term gain for longer-term prosperity. Individuals controlling shares which they had owned for only a few days or weeks determined the destiny of a company that had been built over almost 200 years.

**Table 9.1 HR policies and practices: Evidence from the UK's Workplace Employment Relations Survey**

Recent years have certainly seen reductions in the tiers of managers in some organisations – British Steel, which is now a subsidiary of Tata Steel, is a good example<sup>36</sup>. These have rarely been accompanied, however, by the widely-promoted semi-autonomous team working. According to the 2004 WERS, around three-quarters of workplaces (72 per cent) reported that some employees were involved in formally designated teams<sup>37</sup>. Yet only a small number of these, just 6 per cent, said that employees were allowed to appoint their own team leaders. Other data, from the 2001 Skills Survey, also suggests that, although there had been some increase in team working in the 1990s, there had been a substantial decline in task discretion<sup>38</sup>. Less than half of employees said that they had a lot of influence on how work was done or the order in which tasks were undertaken; only a third said so in relation to the tasks performed<sup>39</sup>.

*Individualism rather than collectivism?* There has certainly been a shift in emphasis to individual employment relations. One indicator is the number of workplaces covered by collective bargaining. In 1980, some nine out of 10 workplaces in the private sector were covered. In 2004, this had dropped to less than two in 10 (16 per cent)<sup>40</sup>. Paralleling this development has been an increasing emphasis on performance management even where unions are recognised, as in the public sector. Yet, for all the talk, individualised contracts are very rarely found beyond the higher echelons of senior executives. Essentially, most contracts of employment tend to take a 'standard form', the written statement usually requiring the consultation of other documents that are expressly incorporated, such as staff handbooks and occupational pension schemes composed on advice from lawyers<sup>41</sup>. In theory, this makes it much easier to differentiate between each individual and pay him or her according to their performance. In practice, it is rare to find any difference between the pay of most employees and what there is, is most likely to be linked to length of service. 'Merit pay' awards for most have an uncanny similarity to movements in inflation and should more accurately be called 'cost of living awards'. Where there is variety, it is found among poor performers, who rarely exceed 5 per cent, and high performers where usually less than 10 per cent are given above average awards.

*'High performance working'?* Despite the rhetoric and strong public policy support for the adoption of an integrated bundle of high performance or high involvement practices, the take-up has been low. In 1998, the then WERS reported that 'high commitment management practices are associated with better economic performance, better workplace well being and a better climate of employment relations, *but just 14 percent of all workplaces have a majority of them in place*'<sup>42</sup>. WERS 2004 suggests very little evidence to indicate that the take up quickened in recent years. Take the three practices that, on this occasion, it uses as indicators of 'high performance working', i.e. team working, multi-skilling and problem solving groups. The proportion of continuing workplaces combining these three practices rose from 22 per cent to 29 per cent between 1998 and 2004, but the increase was

## EMPLOYMENT RELATIONS MATTERS

much smaller (from 15 per cent to 19 per cent) if team working was restricted to groups exercising a degree of autonomy<sup>43</sup>.

*A strategic approach?* The need for management to develop a more integrated approach to employment relations has been a constant theme since the publication of the Donovan Royal Commission report (1968) four decades ago. Yet, as review after review<sup>44</sup> has concluded, although some individual cases stand out, it is very difficult to identify any general patterns or styles in British management's approach. WERS 2004 showed that only four out of ten (38 per cent) of workplaces were accredited for by Investors in People (IiP), which requires them to have a planned approach to setting and communicating business objectives and developing people to meet those objectives<sup>45</sup>. Less than two-thirds of workplaces (61 per cent) reported having a strategic plan covering just one of three employment relations issues, i.e. employee development, employee job satisfaction, and employee diversity.

Perhaps most interesting are the data on the workplaces that do appear to be pursuing a strategic approach. There are four findings that are important. First, there is no clear link between the measures of HRM strategies and product market strategies - quality, it seems, is not as critical in this context as many people believe. Second, there is a positive relationship between these measures and the amount of change that management has introduced at the workplace - the more changes being experienced, the greater the likelihood of a strategic approach to HRM. Furthermore, this positive relationship between HR integration and the probability of making changes held across eight types of change. Third, there is also a positive relationship between these measures and labour costs. Workplaces whose labour costs exceeded half their sales revenue or operating costs were significantly more likely than those with lower labour costs to have a strategic plan covering HRM, to involve specialist managers in its preparation and to be IiP qualified. Fourth, higher scores on the HR integration index were also associated with a higher incidence of contracted-out services. Attention to change, labour costs and contracting out are wholly consistent with the pressures for restructuring that many UK organisations have been experiencing for the reasons considered below.

### **The HRM function: more than personnel management by another name?**

The WERS findings in respect of the specialist function are largely consistent with the picture emerging so far. Overall, it seems, the function continues to struggle to achieve the position and status associated with strategic HRM. Only just over one in four workplaces had a specialist manager who spent more than half of their time on HR matters<sup>46</sup>. In the economy as a whole, managers responsible for employment relations were involved in the preparation of a strategic plan in around half (53 per cent) of all workplaces (ibid, 64). In multi-establishment companies, only three out of five of private sector respondents reported having someone responsible for employment relations on the board of directors or top governing body: this is important because workplaces with board-level employment relations representation were much more likely to include employment relations in a strategic business plan (ibid, 62, 64).

Yet many more workplaces had specialists in 2004 (28 per cent) than in 1998 (17 per cent) (ibid, 39). Moreover, not only had the proportion with 'human resource managers' increased –there are more 'human resource managers' than there are 'personnel managers' - they were also likely to be better qualified (especially the female specialists who considerably outnumber their male counterparts), spend more time on employment relations issues, have more staff assisting them, and more likely to be responsible for pay and pension entitlements than personnel managers. The HR label also made a difference in terms of the autonomy that local managers have when making decisions about employment relations matters. Specialist managers were also likely to seek advice from external sources. Overall, if there is no great evidence of concern with 'grand' strategy, the specialist function does appear to be developing the all-round competence that commentators have advocated<sup>47</sup>. Equally, it does not appear that there has been any increase in the unloading of key responsibilities to either line managers or external agencies.

### **Summary**

Changes in the policies and practices directly involved in managing the employment relationship turn out to be nowhere near as dramatic as many pundits have proclaimed. There is certainly little evidence of autonomous team working and 'high performance working'; the number of workplaces with a comprehensive strategy also appears to be very small. At the same time, however, it appears that there has been a considerable increase in performance management; there is also a close relationship between those that adopt a more strategic approach and two key variables: the extent of changes taking place and the significance of labour costs. There have also been developments in the specialist function: there appears to be a new breed of HR managers, who are better qualified and have greater responsibilities.

## EMPLOYMENT RELATIONS MATTERS

**Table 4.1 Mergers and acquisitions in the UK, 1997-2006<sup>48</sup>**

	By UK companies		By foreign companies	
	<i>Number</i>	<i>Value £ billion</i>	<i>Number</i>	<i>Value £ billion</i>
1997	506	26.829	193	15.717
1998	635	29.525	252	32.413
1999	493	26.163	252	60.860
2000	587	106.916	227	64.618
2001	493	28.994	162	24.382
2002	430	25.236	117	16.798
2003	558	18.679	129	9.309
2004	741	31.408	178	29.928
2005	769	25.134	242	50.280
2006	739	27.694	242	75.511

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## **Trade unions and collective bargaining – the end of an era?**

### **Main tasks**

- **Explain the logic of trade unions and collective bargaining**
- **Chart the decline in trade union density along with the coverage and scope of collective bargaining**
- **Review the main challenges to trade unions and collective bargaining**
- **Discuss future prospects for trade unions and collective bargaining**

### **Summary**

Almost invariably, trade unions and professional associations have emerged as a countervailing power to that of the employer. Although not always the main instigator of collective bargaining, this is the process with which they have become most associated: collective bargaining ('joint regulation') made it possible for them to represent employees' interests in both fixing and administering the main terms and conditions of the employment relationship. In many cases, however, it was not just because of the 'collective 'goods' or, indeed, the 'selective' incentives that many offered that trade union membership achieved very high levels. Also important was 'social custom' – the widespread belief throughout society that membership was a duty and an obligation. Since the 1980s, however, both considerations appear to be waning in influence. There has been a decline in trade union density in most major countries, albeit the degree is very different between private sector and public sector and from occupation to occupation. There has also been a decline in the employee coverage of collective bargaining, although not as universal as that in trade union density, along with the scope of its subject

## *Trade unions and collective bargaining – the end of an era?*

matter. A number of changes in the composition of employment help to account for these developments – the shift from manufacturing to services, the reduction in the size of workplaces, the increasing feminisation of the workforce and the growth of part-time working - but they are not as important as popularly believed. Arguably, the main explanation is that employers no longer see the benefits in collective bargaining that they used to. Considerations here include the very significant competitive pressures to maximise performance, meaning they can no longer compromise in way they used too; the adoption of non-accommodating monetary regimes reducing the scope for wage increases; ‘juridification’ and the encouragement of more consistency in management’s approach; and important ideological considerations such as ‘neo-liberalism’s’ dominance of national level policy making and ‘marketisation’ at company level resulting in greater ‘fragmentation’ of employment. Looking to the future, the prospects for most trade unions and collective bargaining look pretty bleak. None of the models proposed for trade unions (‘service’, ‘partnership’, ‘campaigning’ and ‘organising’) appears to be able to engender the mixture of ‘movement’ and ‘organisation’ that trade unions have traditionally been able to rely on. Arguably, the prospects for trade unions and collective bargaining will very much depend on the decisions of policy makers and the extent to which they value their contribution in upholding social justice and offering an alternative to legal enactment.

### **The logic of trade unions and collective bargaining**

#### *Countervailing power*

Trade unions have been a universal response to the asymmetry or inequality of power in the employment relationship. In Flanders much-quoted words, trade unions have ‘two faces, sword of justice and vested interest’<sup>1</sup>. They are a ‘vested interest’ in as much as their immediate concern is with the particular interest of their members. They are a ‘sword of justice’ because, in offering protection to individual employees by limiting the arbitrary use of managerial power and lessening the dependences of workers on market fluctuations, they promote democratic involvement and a strong sense of idealism and social purpose. It is for these reasons that the right to form and join trade unions has been more or less universally enshrined

## EMPLOYMENT RELATIONS MATTERS

in legal codes in many countries and in the United Nations' 'Declaration of Human Rights'.

In seeking to fulfil their purpose, trade unions have come to be associated with three main types of activities. First are the activities that trade unions undertake unilaterally in support of their members' interests. Typically, trade unions have offered a range of mutual insurance benefits for their members; those organised around a craft or profession have usually been in a position to exert considerable influence over their members' employment relationship via codes of conduct or extended periods of 'apprenticeship'. Second is the collective bargaining that they undertake jointly with employers, more of which below. Third, as is also explained below, is the representation of their member's interests to government with a view to securing legal rights.

Trade unions come in many shapes and sizes. At first sight, especially in the UK, trade union structure, i.e. the coverage by occupation and sector, appears to be a 'hotch-potch'. But there is a logic, which reflects the balance between the three sets of activities. In an initial phase, craft societies grew up based on highly skilled occupations such as those in the printing and engineering trades. Very often their control of the supply of labour, together with mutual insurance provisions, made it possible for them to set levels of pay and conditions more or less unilaterally – in the event of employers failing to meet their demands, the craft societies would deny the employers labour, using their mutual insurance funds as a form of strike pay. A second phase saw the emergence of semi and unskilled workers in large numbers in manufacturing industries such as engineering, shipbuilding and steel, along with utilities such as gas and water. In some cases, the craft societies absorbed them. In most, however, these groups were largely left to establish their own industry organisations or more general ones that recruited members across different industries – transport workers were often the link. In this case, rather than unilateral regulation, collective bargaining and legal enactment were the priorities. In a third wave, employees in the public sector increasingly unionised, along with white collar workers more generally. Like the craft societies in printing and engineering, skilled workers organised around the occupation, while semi and unskilled workers established dedicated public sector groupings or threw their

lot in with the general unions. In countries such as the UK a process of merger and amalgamation throughout helps to explain the patch work that is to be found today.

Issues of identity were also closely related. As Hyman has neatly summarised, ‘three main identities either struggled for supremacy or else co-existed’ depending of the specific national context in which they emerged<sup>2</sup>. The first viewed unions as ‘interest organisations with exclusively labour market functions’ – ‘pure and simple unionism’ in the words of Samuel Gompers, who was one of the architects of the AFL-CIO in the USA. The second treated them as ‘vehicles for raising workers’ status more generally and hence advancing social justice’. The third regarded them as ‘schools of war’ in a struggle between capital and labour’. In practice, as well as reflecting the balance between collective bargaining and legal enactment, the differences manifested themselves in other notable ways: for example, the relationship with political parties and the use of the strike – a trial of strength with employers as against a much more symbolic public demonstration.

Thus, trade unions in the USA have usually been associated with the ‘pure and simple unionism’ or ‘business unionism’: priority was given to collective bargaining and, while laying claim to be raising workers’ status, there was a reluctance to be overly identified with any one political party. In the middle might be located trade unions in Germany, Netherlands and the UK – in each case, trade unions had strong links with political parties on the left (indeed, in the UK, it the trade unions who played a critical role in forming the Labour Party), but collective bargaining was of equal, if not greater priority, to legal action. At the other extreme were the trade unions in the Latin countries (France, Italy and Spain). Here the major general confederations that emerged have been associated with Communist parties and political action, in the form of political exchange involving the state, with legal enactment tending to be given priority over collective bargaining. Indeed, as Chapter 5 has already indicated, in France in particular, their reluctance to reach collective agreements was a symbolic act designed to deny management its legitimacy.

The ability of trade unions to achieve their objectives is critically dependent on the power resources available. Trade unions have been described as a mixture of ‘movement’ and ‘organisation’: they need group identity that binds them together and ideology that promotes

collective action, the first for their vitality and the second for their power<sup>3</sup>. Also fundamentally important is the structural position in which they operate. Thus, some groups are much more difficult to substitute than others. This is especially so where the members have been able to achieve a measure of control over entry to the occupation or profession – historically, this often took the form of the ‘closed shop’; more recently, ‘occupational licensing’ is having a similar effect<sup>4</sup>. Equally, trade union power depends on the product market in which its members are involved. The ability of employer to concede varies considerably, reflecting the nature and extent of product market competition.

Crucial too is the extent to which society and the state legitimise trade union activities as fulfilling a critical role in society – indeed, some commentators contrast the ‘coercive’ power that reflects trade unions’ structural position with the ‘legitimacy’ power that is bestowed by the wider society<sup>5</sup>. Especially important here is the issue of recognition. Like those in the USA, trades unions in the UK suffer from the fact that the recognition process is workplace-based. In effect, this presents trade unions with a ‘catch 22’ situation: they have to have members before they can reach collective agreements; but it is difficult to recruit members unless they can show the benefits of collective agreements that are available. By contrast in the continental European countries, where recognition is nationally or sectorally based, trade unions are under nothing like the same pressures. The role that such recognition gives them in social dialogue and other tripartite arrangements also helps to fuel the ‘social custom’ argument for trade union membership discussed below.

Trade union membership is also affected by access rights to the workplace<sup>6</sup>. Thus trade union membership remains relatively high in countries with substantial and longstanding access rights, e.g. Sweden and Belgium. By contrast, in countries where trade unions have few if any such rights, e.g. France, the UK and the USA, trade union density is below average and there has been greater membership loss.

### *Joint regulation*

Almost everywhere, the growth of trade unions and collective bargaining was very much related. Indeed, it is with collective bargaining that trade unions have come to be closely identified. In key

*Trade unions and collective bargaining – the end of an era?*

respects, however, the term is a misnomer. As Flanders<sup>7</sup> emphasised many years ago, collective bargaining is not the collective equivalent of individual bargaining in the way that the Webbs implied in their pioneering work<sup>8</sup>. Collective bargaining certainly deals with distributive issues, as Chapter 5 has emphasised, but trade unions are not ‘labour cartels’. They also do not limit themselves to regulating the price of labour, but issues such as discipline and dismissal, promotion, and training, together with the promotion of a rule of law. ‘Stated in the simplest possible terms these rules provide protection, a shield, for their members. And they protect not only their material standards of living, but equally their security, status and self-respect; in short their dignity as human being’<sup>9</sup>. Collective bargaining, in other words, was ‘an institution freeing labour from being too much at the mercy of the market’<sup>10</sup>; it also helped to prevent favouritism, nepotism, victimisation and arbitrary discrimination.

A collective agreement ... though it is frequently called a collective bargain and in some countries where it has legal force a collective contract, does not commit anyone to buy or sell labour. It does something quite different. It is meant to ensure that when labour is bought and sold ... its price and the other terms of the transaction will accord with the provisions of the agreement. These provisions are in fact a body of rules intended to regulate among other things the terms of employment contracts. Thus collective bargaining is itself essentially a rule making process, and this is a feature which had no proper counterpart in individual bargaining<sup>11</sup>.

Seen from this perspective, one of the things that collective bargaining brings is the opportunity for employee ‘voice’ not only in the making of the rules but also their administration. From this involvement comes ownership and from ownership a measure of commitment. Not for nothing did many of the pioneers of employment relations study in the UK and the USA talk about ‘private systems of governance’, ‘industrial jurisprudence’, ‘industrial self-government’, ‘secondary systems of ‘industrial citizenship’, ‘industrial democracy’ and the like<sup>12</sup>. In Dunlop’s words, ‘a great deal of the complexity and beauty of collective bargaining involves the process of compromise and assessment of priorities within each side’<sup>13</sup>. Arguably, it is for these reasons that collective bargaining came to be seen as a basic

ingredient of a democratic society and a major building block of the EU 'social model'.

Self-evidently, the coming of trade unions was the catalyst for the development of collective bargaining. To understand why it developed and more recently declined, however, it is also necessary to taken into account the role of employers and government. Surprising as it may seem, in the initial phase the UK in industries such as printing and engineering, it was very often employers who were in the vanguard. The multi-employer bargaining for which they were largely responsible brought two main benefits. It not only provided a degree of 'market' control by putting a floor under competition on wages and working time. It was also important in maintaining their 'managerial' control: it pooled their strength vis-à-vis organised labour, enabling them to counter trade union 'whipsawing' tactics with the threat of lock-outs that raised the costs of industrial action considerably; and it helped to neutralise the workplace from trade union activities by exhausting or setting limits to the scope for negotiation there. Collective bargaining, in other words, involved a form of mutual recognition in which management's right to manage was implicitly – and in some cases such as the engineering and metalworking industries in Sweden and the UK - explicitly recognised.

Trade unions also helped in the performance of a number of management tasks. One is an 'agency' function, which is especially important where there is a large number of employees undertaking the same or similar tasks: managers escape the time-consuming and costly process of dealing with employees individually and avoid the inconsistencies in treatment that can so easily arise. A second is that trade unions 'voice' employee grievances and complaints. Henry Mond, who was one of the architects of ICI, the giant chemical company in the UK, put it like this: 'the trade unions are extremely useful to us in bringing to our notice matters that we should not otherwise be aware of'<sup>14</sup>. A third is that trade unions help to manage discontent by legitimising disciplinary procedures and the like.

In many countries, government was also very active. As Chapter 4 highlighted, Governments saw collective bargaining as a means of institutionalising and containing industrial conflict, along with delivering other key policy goals, ranging from employment standards to price control. Crucially, collective bargaining offered an alternative

### *Trade unions and collective bargaining – the end of an era?*

to statutory intervention. The state could encourage a form of self regulation and avoid imposing particular distributive outcomes. In the language of legal discourse, the law could be ‘reflexive’ and ‘procedural’<sup>15</sup>.

The influence of employers and government is reflected in the structure of collective bargaining and, in particular, its level. Thus collective bargaining can be single-employer or multi-employer; single-employer bargaining can also be single or multi-establishment and multi-employer bargaining single-industry or multi-industry. In terms of agents, it can be restricted to trade unions or extended to cover other collective forms of employee representation including works councils or even work groups. In terms of subject, it can emphasise matters of substance or procedure. In terms of activity, it can be viewed as a rule making process leading to employment regulation or as a negotiating process, whose logic is as much about shaping on-going relationships as it is about resolving particular issues. As Chapter 5 explained, collective bargaining also involves a ‘vertical’ as well as ‘horizontal’ collective action problem: the parties have to reach some accommodation among themselves (the ‘vertical’ dimension) before they are able to deal effectively with the other (the ‘horizontal’ dimension).

### **Three decades of decline**

In discussions of trade union membership, two main types of explanation are offered for why workers join trade unions<sup>16</sup>. The first turns on the benefits or incentives that membership brings. At first sight, these seem hardly problematic. Collective bargaining brings higher wages, shorter working time and better working conditions. The problem is that these have come to be regarded as collective or public goods. Because employers often do not make a distinction between union and non-union members, the individual employee has little incentive to join a union - he/she can save the membership fee and still enjoy the collectively agreed minimum standards.

To solve this so-called ‘free-rider’ problem, it is argued, selective incentives are needed in the form of private goods and/or services for union members only. Thus, in some countries, a general form of selective incentive is to be found in the operation of insurance schemes. This is seen to be especially important in the countries where

the so-called 'Ghent' system operates (i.e. Belgium, Denmark, Finland and Sweden). Unemployment insurance is compulsory and controlled by the state, but the unions participate in its administration. In principle, every worker is welcome to join the insurance system without joining a union. However, insurance is often connected with union membership for two reasons: Unions can make it difficult for nonmembers to obtain unemployment insurance and control, or greatly influence, what is considered a 'suitable job'. Thus, individuals choose membership to gain better insurance conditions.

The other type of explanation for trade union membership emphasises the role of 'social custom'. Selective incentives are unnecessary, it is argued, if belonging to a union provides 'reputation gains'<sup>17</sup>. If workers directly derive utility from belonging to a union and not being an outsider, they are assumed to be more prepared to join a union if others also join. If a union achieves a critical minimum density and thereby assures that the 'reputation effect' works, a union can exist despite the 'free-rider' problem. The problem is that the argument also works in reverse: the range of 'selective benefits' that can be offered is limited and in times of 'individualism trade union cannot rely on 'social custom'. In Simms and Charlwood's words, it is now 'even more difficult than in earlier periods to identify, construct and promote a single coherent set of collective interests among workers'<sup>18</sup>.

### *Trade union density*

Visser offers the most authoritative overview<sup>19</sup>. Table 9.1 gives his details of trade union density, i.e. the proportion of the workforce in a trade union which is eligible, for the same selected countries that featured in the Appendix. The first point to note is that there is a very large variation - trade union membership as a proportion of the workforce is very high in Sweden and very low in France and the USA. Germany, the Netherlands and the UK occupy the middle ground - with just more than one-fifth of the working population in membership. The second point is that, having increased in the 1960s and 1970s - it reached 56 per cent in UK in 1979 - trade union density has declined considerably in five of the six countries. Indeed, each decade has been progressively worse from the trade union point of view. The one country in Table 9.1 not experiencing a decline is

### *Trade unions and collective bargaining – the end of an era?*

Sweden - the only country in the selection in the Appendix in which trade unions are involved in a Ghent-type system of social insurance. But even in Sweden there has been a decline since 2005<sup>20</sup>.

As Table 9.2 suggests, a more complicated pattern lies behind the overall figures. Trade union membership patterns largely reflect the structural features of the sector, workplace and the worker's employment status rather than personal characteristics. For example, in the UK and Sweden, the overall female unionisation rate is equal with or even higher than the male. At the same time, however, the unionisation of part-time workers, the majority of whom are female, is lower. The same is true of temporary or casual workers. Clearly, too, the decline in unionisation is concentrated very strongly in the private sector. In every one of the countries, unionisation in the public sector is considerably higher than in the private. In the USA, for example, density in the public sector is more than four times what it is in the private; in France and the UK, it is around three times. Also clear is that, within the private sector, although declining, density in manufacturing is higher than in services. In every case, it will be seen from Table 9.2, there are several percentage points' difference between the rates in the overall private sector and manufacturing.

#### *Collective bargaining coverage*

As the final row in Table 9.2 suggests, the differences between the single and multi-employer countries are especially marked in the case of the proportion of the workforce covered by collective agreements. In the single-employer countries, shifts in trade union density almost automatically translate into collective bargaining coverage reflecting the fact that the agreement is only workplace or company-wide. The result is that collective bargaining coverage is only slightly above union membership in the USA and, with a wider margin, the UK.

In the multi-employer countries, collective bargaining coverage is much less sensitive to changes in trade union density. The extreme case is France. Trade union density is very low, but collective bargaining almost universal. This is because of the overall role and status of collective agreements as both legally enforceable contracts and codes. Indeed, such is their status that, in countries such as France, Germany and the Netherlands, the provisions of multi-agreement are extended to firms in the sector regardless of the

presence of trade union members among their employees. These factors tend to lower the opposition of employers against unions, as all share the same costs inflicted by unions (as well as benefits from union cooperation)<sup>21</sup>. Even so, things have not been standing still in the countries where multi-employer bargaining is the dominant pattern. Three main types of development have been taking place that threaten the long-term viability of collective bargaining.

*'Fraying at the edges'*. In some countries, multi-employer agreements are shrinking in their coverage of firms within a sector. This is especially evident in Germany. In the key metalworking sector, the membership density of *Gesamtmetall*, the employers' association, has declined steadily since 1980, when it stood at 58 per cent, to 44 per cent in the western part of the country in 1993 and 34 per cent in 1998. In the eastern part of the country, it stood at only 17 per cent in 1998, having fallen from 35 per cent in 1993<sup>22</sup>. The decline in the proportion of the metalworking workforce employed in member companies has, however, been slower and between 1993 and 1998 levelled out, leading Hassel to conclude that 'big companies tend to remain members of the employers' associations while small companies tend to resign'<sup>23</sup>.

*'Decentralisation'*. As Chapter 5 explained, the agenda of collective bargaining has increasingly become oriented towards questions of competitiveness, adaptability and employment reflecting a shift from a process that was essentially 'productivity-oriented' to one this 'competition-oriented'<sup>24</sup>. The main effect is that more and more issues are being decentralised for company or workplace determination, reflecting the 'development of a 'different paradigm' of industrial relations'<sup>25</sup>. As Chapter 5 also pointed out, company-level negotiations dealing with restructuring, so-called 'pacts for employment and competitiveness', became almost universal across EU countries in the 1990s.

*'Hollowing out'*. A number of devices have been used to introduce scope for company level variation within the framework of sector agreements raising concerns about their long term viability<sup>26</sup>. These vary in the degree of the 'softness' introduced into the multi-employer agreement. Basically, this means two things: first, the extent to which they are consistent with the principle of universal standards that sector

*Trade unions and collective bargaining – the end of an era?*

agreements have traditionally promulgated; and, second, the extent to which the regulation provided is ‘complete’, i.e. prescribes the parameters of local outcomes. A rough continuum is apparent in the degree of ‘softness’ introduced into sector agreements under these different mechanisms, with complete opening clauses and framework agreements at one end and incomplete frameworks and specifying minimum standards at the other. The further towards the ‘softer’ end of this continuum, the more the substantive content of sector agreements tends to become ‘hollowed-out’ and the more they assume a procedural character.

Thus, some forms of organised decentralisation, such as ‘hardship’ and ‘opt-out’ clauses, expressly provide for derogation from the universal standard, the credibility of which is potentially undermined. Examples of hardship clauses where the employer is able to pay less than the collectively agreed rate under special economic circumstances are to be found in construction and metalworking in eastern Germany and chemicals in the west. Opening clauses permitting derogation from the universal standard include those in Austria (metalworking) and Germany (banking, chemicals and metalworking) whereby companies can make local agreements on short-term working time reduction below the normal weekly level with no wage compensation, but with a guarantee of employment security for the term of the reduction.

Developments in the Netherlands also suggest that the company-level is far from being the end-point of the decentralisation process. In 1999, the Foundation of Labour (the joint body responsible for advising the government on socio-economic decision making) reached an agreement promoting ‘tailored employment conditions’. Referred to as a ‘multiple-choice model’, the understanding encourages negotiators at lower levels to introduce, within the framework of the collective agreement, scope for greater individual choice with regard to certain employment conditions. There might be a trade-off, for example, between ‘time and money’ or current and deferred remuneration. By mid-2001, fourteen sectors had concluded agreements containing such *à la carte* arrangements and a further fourteen had commissioned exploratory studies. Individual companies concluding such agreements included ABN-AMRO and Philips.

## **Collective bargaining under pressure**

It is important to emphasise that the initial compromise between employers and trade unions, usually facilitated by the state, was just that – a compromise contingent on circumstances. It never created a ‘perfect equilibrium’. While trade unions and employers might have had a common interest in achieving a measure of ‘market’ regulation, their positions on the implications of collective bargaining for ‘managerial’ regulation always differed. As the previous chapter observed, for trade unions, the collective agreement was the beginning of the process of seeking influence over the employment relationship; for employers it was the end – ‘neutralisation’ of the workplace involved helped to uphold managerial prerogative.

For several decades after the historical compromises, it was trade unions which pushed for a greater role for workplace negotiations, with management resisting. In recent years, there has been a role reversal. Management, above all in large MNCs, has been the main proponent of decentralisation while trade unions have sought to maintain the status quo.

### *Factors in decline*

Chapter 7 discussed a number of explanations for the decline in strikes. Accounting for the decline in trade union density and collective bargaining involves a rehearsal of these. The difference, however, is that the quantitative data available about trade union membership are more robust than those dealing with strikes.

*Changing employment structure.* In discussions of the widespread decline in trade union membership, much attention focuses on the changing patterns of employment - in particular, the decline of manufacturing and the growth of services, the increasing feminisation of the workforce, the growth of part-time and agency working and so on<sup>27</sup>. It is known as the ‘compositional argument’<sup>28</sup>. Historically, trade unions were primarily the product of the collective organisation of male full time workers in industries such as docks, metalworking, mining, printing and the railways. Crucially, they were rooted in ‘occupational communities’ helping to explain a strong sense of solidarity. Collective interests and identities did not have to be constructed – they ‘existed’. Arguably, the decline in such sectors and

*Trade unions and collective bargaining – the end of an era?*

their displacement by the burgeoning service industries has had considerable structural and attitudinal implications. Structurally, organising part time workers or those in small scattered workplaces is much more difficult than organising miners. Attitudes come into play in terms of what is expected of the union and its members. For manual workers in the traditional industries, it was a matter of ‘one for all and all for one’ – there really was no alternative. For many white collar workers in the service sectors, however, the possibilities of individual careers mean that collective action does not necessarily come automatically. Similarly, the willingness to become involved in the union’s activities and readiness to follow its advice or instructions in face of appeals from other sources is more of an individual calculation. Perhaps most importantly, the demise of the strong union bastions rooted in their occupational communities has undermined the strength of ‘social custom’ in the trade union membership decision. Certainly their loss means that there few demonstration effects of trade unions in action resulting in ‘diminishing mobility potential’<sup>29</sup>.

Changes in employment structure are by no means the whole story, however. In the case of trade union membership, in particular, there is growing evidence to suggest that the direct ‘compositional effects’ are not as important as it was thought. It is in the UK that the most exhaustive analysis has been possible, reflecting the availability of the representative WERS data. On the basis of these, it has been estimated that only around a third of the 28 percentage-point decline in trade union recognition is attributable to changes in workplace characteristics<sup>30</sup>. Similarly, only one-tenth of the decline in the incidence of collective bargaining in the private sector is due to compositional change. In the words of the authors of the most recent analysis, ‘We can confidently reject the notion that compositional change in the economy has played a major part in diminishing the role of collective bargaining’<sup>31</sup>. Rather it was a matter of employers turning their backs on trade unions – preferring to ‘go’ or ‘remain’ non-union or to reduce the range of issues for which recognition is effective.

*Cyclical factors.* The levels of inflation and unemployment, sometimes labeled ‘cyclical’ factors, also play a role. Historically, low levels of inflation and high levels of unemployment have been deemed to have a negative effect on trade union density: the first reduces the

incentive to join, while the latter is believed to encourage employer resistance. This is especially so if unemployment insurance is mandatory and administered by the government. By the same token, rising consumer prices threaten employees' standard of living encouraging them join trade unions in order to defend their real wages. Low unemployment is also believed to strengthen trade unions' ability to win concessions and so make them more attractive<sup>32</sup>.

Certainly the non-accommodating monetary regimes discussed in Chapter 5 have had the effect of producing relatively low levels of inflation and similarly low pay settlements in recent years. The association between levels of unemployment and trade union density, however, seems to be less strong that used to be the case. In the UK, for example, unemployment was falling throughout much of the 1990s and early years of the new millennium and yet trade union membership continued to decline.

*Intensifying competition.* A third set of factors reflects increasing competition. There has long been recognised to be a close association between developments in collective bargaining and the nature and extent of the product market competition that companies experience – indeed, Commons drew attention to it more than a century ago in showing how the level of collective bargaining in shoe making went from local to district to national in line with the spread of the product market<sup>33</sup>. Thus, as the previous section indicated, a major factor in the development of collective bargaining was its ability to take wages out of competition. In recent years, however, the nature and extent of competition has changed dramatically, spreading beyond the boundaries of the national state with which collective bargaining had come to be associated. Especially important is the rise of first Japanese, and then Chinese manufacturers, the collapse of the former USSR and the incorporation of Bulgaria, the Czech Republic, Poland, Hungary, Romania and others into the EU, offering alternative locations for investment. Compounding matters is that the increasing liberalisation of trade, both global through the WTO and regional as the result of the EU's 'single market', means that it much more difficult for governments to intervene to protect employment.

The underlying proposition is set out in the work of Reder and Ulman. In their words, 'union organisation or its span of control must be at least as broad as the product market. Otherwise, non-unionised

*Trade unions and collective bargaining – the end of an era?*

firms would be able to sell goods for lower prices than unionised firms, resulting in loss of union jobs and declining membership<sup>34</sup>. On the basis of US experience, they argue that the organisational decline of unions may occur under either of two conditions.

First, when product markets become spatially extended or further integrated, *unless* (their emphasis) union organisation expands with the market, or union decision making becomes more centralised. Second, when organisation shrinks within existing market boundaries, *unless* (their emphasis) negotiated wage increases cause non-union workers to join unions or regulations or other arrangements bar non-union entry or operation<sup>35</sup>.

The ability of trade unions to take various terms of employment out of competition within national borders also depends on the framework of public policy. States can provide some protection against external competition by tariff and non-tariff barriers. Where there are floating exchange rates, they can also devalue the currency. Under developments such as the EU's Economic and Monetary Union, however, the capacity to maintain barriers and to devalue disappears. The combined effects of EU economic integration therefore weaken considerably national trade unions' ability to influence terms of employment. The challenge they pose to trade unions throughout the EU is rather chilling:

The elimination or attenuation of this power could beset European unions with the same dilemma US unions have faced: either to create more highly centralised structures able to cope with unified markets (as US unions were able to do in the nineteenth century and again in the 1930s) or, lacking that capability, to suffer decentralisation and organisational loss (as happened to US unions in the 1970s and 1980s under the impact of legal deregulation and intensified international competition)<sup>36</sup>.

The point is that intensifying competition means that employers find many of the provisions of collective agreements increasingly restrictive - for example, those dealing with hours of work may make it difficult to extend working time. The level of wages may higher than they would otherwise be - the so- called union 'mark-up' has been declining. Managers can find also find it frustrating to have to

## EMPLOYMENT RELATIONS MATTERS

consult and negotiate in times of continuous change. Crucially, intensifying competition means that there are much smaller ‘rents’ for employers to share with trade unions in the form of higher levels of wages. In the words of the major study of decline that draws on the UK’s Workplace Employment Relations Survey,

Over our quarter century, collective bargaining has retreated fastest in those workplaces that, relative to others, were in product markets with particular competitive characteristics. Their workplaces faced more geographically local competition. Their industries had lower profit levels. And their industries faced a relative worsening of profitability. The growth of collective bargaining in the twentieth century had been nurtured by imperfect competition. Tightening product market competition suffocated it<sup>37</sup>.

Privatisation has also been ‘major contributor’ to the decline of collective bargaining<sup>38</sup>. Many former state enterprises continue to enjoy a natural monopoly. But others do not and these hitherto sheltered industries have found themselves exposed to increased product market competition.

Adding to the competitive pressures have been developments in capital markets. The liberalisation and deregulation of capital markets in 1980s and 1990s have put greater emphasis on company financial performance. As the previous chapter explained, the emergence of more active and aggressive investors such as hedge funds, private equity groups and sovereign wealth funds is especially important here. Coupled with the greater availability of capital to finance merger and acquisition activity, more and more emphasis has shifted onto financial results in the form of returns on investment regardless of product or sector. A key consequence of what has come to be known as ‘financialisation’ has been to intensify the pressure on managers to increase returns to shareholders.

*‘Juridification’*. Although much more difficult to quantify, another relevant factor is the process of ‘juridification’ discussed in earlier chapters. In the UK, most attention has focused on legislation introduced between 1980 and 1993 designed to curtail trade union activity - it ranged from the outlawing of the closed shop, to a ban on picketing at other than the immediate place of work to statutory

*Trade unions and collective bargaining – the end of an era?*

balloting requirements for legally recognised industrial action. Arguably, however, as Chapter 7 suggested, it is the very considerable increase in individual rights that deserves most attention. For these have had two substantial effects: first, they have helped to soften the harsher features of the subordination intrinsic to managerial hierarchies; and, second, in requiring managers to introduce and follow set procedures for dealing with issues such as discipline, dismissal, and discrimination, they have helped to reduce the inconsistency (or ‘opportunism’) of management behaviour that is so very often a major source of conflict. In short, ‘juridification’ has encouraged a shift away from ‘collectivism’ and towards ‘individualism’ - the more individual employment rights there are, the weaker the case for trade unions and collective bargaining. In the words of Checchi and Lucifora, the legislative framework acts as a ‘substitute for union-provided protection’<sup>39</sup>.

*Ideological considerations.* Recent years have also witnessed a very considerable undermining of the ‘legitimacy power’ of trade unions and collective bargaining. In particular, the view that collective bargaining is a ‘public good’ has come under challenge, its role in institutionalising and containing industrial conflict increasingly forgotten as the incidence of strikes has declined. Since the 1980s the ‘new ideological hegemony of neo-liberalism’ in Europe has meant criticism of the both the goals and institutions associated with ‘political correction of market outcomes’<sup>40</sup>. In as much as multi-employer bargaining sets non-market wages, it is held to result in unemployment, thereby generating inequality in the labour market. Rather than being inclusive, too little wage differentiation favours ‘insiders’ at the expense of ‘outsiders’. The role of policy is to ensure that all individuals can hold their own equally in the market. The criticism is usually reinforced by contending that the political and institutional prerequisites for the kind of market-correcting behaviour associated with sector bargaining have largely disappeared with the changing structure of modern capitalism.

Debates over the connections between bargaining structure and economic performance outlined in Chapter 2 are relevant too. A prevailing consensus developed amongst economic opinion that the relationship involved was non-linear<sup>41</sup>. Highly centralised bargaining structures, such as those characterising the Nordic area at the time,

apparently performed better in terms of key economic outcomes, because the scope for externalising the wider economic effects of wage decisions is minimised, as did highly decentralised ones because they were disciplined by the market. The worst performing structures were those that were neither fully centralised nor decentralised, i.e. those based on the sector. Although this received economic wisdom has been subject to a thorough going re-appraisal by Traxler and his colleagues, who demonstrate the importance of the particular forms of bargaining co-ordination<sup>42</sup>, it continues to hold sway in many policy making circles.

In countries such as the UK and USA, the influence of ‘neo-liberalism’ on policy making has meant that the emphasis is on markets and ensuring that they work effectively. To all intents and purposes, this has meant the withdrawal of support for trade unions and collective bargaining, with a relatively limited role for government and low taxation. Almost invariably, proposals to improve matters lose out to the desire not to hamper employers’ flexibility<sup>43</sup>. Crucially, too, there is a premium on macro-level target setting, along with the prioritisation of econometric data over other forms of evidence: qualitative issues do not easily lend themselves to this approach. In the other countries, ‘neo-liberalism’ may have been rejected as an explicit statement of policy. Its impact has nonetheless been important. For example, the ability of governments to bail out business has been much curtailed by EU competition laws and the provisions of World Trade Agreements, both of which have been influenced by the ‘Washington consensus’ referred to in the Preface.

At company level, the influence of ‘neo-liberalism’ is mirrored in ‘marketisation’, i.e. the greater application of market principles to decision making. As Chapter 3 has explained, externally, there has been greater fragmentation of employment as the result of ‘competitive tendering’, ‘market testing’ and the subcontracting or outsourcing of activities previously undertaken in-house. Internally, as Chapter 8 described, ‘markets’ have been introduced, with different units being regarded as ‘purchasers’ and ‘providers’ trading products and services with one another.

Also important are new ways of thinking associated with ‘human resource management’ (HRM). HRM has been variously interpreted as encouraging a more strategic approach towards managing

### *Trade unions and collective bargaining – the end of an era?*

employees and/or as more effectively utilising the workforce through new instruments of performance control. As the previous chapter mentioned, controversy continues to surround the ‘rhetoric’ and ‘reality’ of HRM, but definitions usually embrace a number of common elements: the view that employees are a strategic resource for achieving competitive advantage; emphasis on the coherence of personnel policies and their integration with business strategy; an approach to managing employees which is pro-active rather than reactive; and, perhaps above all, a shift in emphasis away from ‘collectivism’ (management-trade union relations) towards ‘individualism’ (management-employee relations) - helping to explain the stress on commitment of and exercise of initiative by individual employees; and elaboration of group and individual-based mechanisms of performance control.

Such considerations have been especially important in the break up of multi-employer agreements in the finance sector not just in the UK, but also Denmark and the Netherlands. If employees really are crucial to securing competitive advantage, it becomes difficult to justify relinquishing control of wages and major conditions to an external agent, i.e. employers’ organisations. As representatives of the Dutch trade unions explained to their colleagues from other countries, one consideration in the decision of the three major Dutch financial services groups, *ABN-AMRO*, *ING* and *RABO*, to withdraw from their sector agreements in banking and insurance in 1999 was a greater willingness to compete with one another in the labour market, undermining the principle of market regulation<sup>44</sup>.

#### *The dynamics of change*

It is not enough, however, simply to list the factors or, indeed, quote the econometric evidence of the links between trade union density, collective bargaining coverage and a range of variables. To understand what has been happening, it is also necessary to appreciate the dynamics of change. Take, for example, the very considerable reduction in the coverage of collective bargaining that took place in the UK between 1984 and 1998, along with a halving of trade union density. Very rarely was this a consequence of active and aggressive acts of derecognition. Rather it reflected a process of withering on the vine – in some cases, managers did not bother to recognise trade

unions in newly established workplaces; in others, the demise of the multi-employer agreement or the break-up of the company (multi-site) agreement similarly meant that some workplaces fell through the net. There was also a great deal of ‘implicit derecognition’, i.e. a gradual reduction in the range and intensity of issues subject to negotiation – with the balance shifting in favour of consultation or communications. Increasingly, managers found that they could function perfectly adequately without trade unions<sup>45</sup>.

Similarly, the ‘decentralisation’ of collective bargaining and the ‘hollowing out’ of multi-employer agreements in countries such as Germany and the Netherlands rarely reflected a deliberate strategy. Rather it was a consequence of the process involved. Employers have found it increasingly difficult to meet trade union aspirations for annual cost of living wage increases without any quid pro quo in the form of a reduction in labour costs and/or improved performance. The problem is that it is difficult to do this on an industry basis, helping to explain the very considerable decentralisation to the company and workplace levels discussed in Chapter 5. Also many of the ‘new’ issues of flexibility etc that negotiators have to confront do not lend themselves to ‘hard’ regulation in the same way that wages and working time do.

Complicating matters is the increasing difference of interest between large and smaller employers, many of which are in close (low cost) subcontracting relationships with one another. Larger companies increasingly operate within market segments whose horizons are international in scope, whereas for many SMEs, competition remains regionally or locally bounded. For larger companies, national, sector bargaining no longer provides a minimum substantive floor. Further, managers in these companies may be concerned to legitimate changes to practice amongst its own workforce by negotiating directly with company employee representatives. Conversely, smaller companies have less incentive and fewer resources to engage in company negotiations that trade off improvements in substantive terms and conditions in return for concessions in employment and working practices<sup>46</sup>.

## **Future prospects**

In considering the prospects for trade unions, a distinction has to be made between those that organise around a specific occupation or profession with a licence to practice and those that are more general in coverage. There is no reason to believe that the future of trade unions in the first group is in great doubt. Indeed, these are the ones whose membership has been growing. For the bulk of trade unions in the second group, however, the future looks much bleaker. If anything, the difficulties trade unions are experiencing in recruiting members, along with the pressures on collective bargaining, are likely to intensify. Conceivably, coupled with the worsening of the terms and conditions of employment, the austerity measure being introduced in many countries following the financial crisis could be a basis for the recruitment of new members<sup>47</sup>. Equally, however, they could lead to further demoralisation, especially as trade unions are finding it difficult to link their role in the workplace with that in the wider society.

There is no shortage of suggestions for what trade unions might do. The first, encapsulated in the ‘service’ model, sees trade unions as providers of services – it takes us back to the ‘friendly societies’ and ‘method of mutual insurance’ of the Webbs, coupled with a representative role in individual disputes. The second relates to the discussion of ‘integrative bargaining’ in Chapter 5 and might be described as the ‘partnership’ model. As Chapter 5 suggested, such a model is applicable at workplace level in the form of ‘mutual gains bargaining’ and at national level in the form of ‘social pacts’. The third is the model of trade unions as populist ‘campaigning organisations’ and involves a combination of social movement and interest organisation. The fourth is the ‘organising’ model. Here the appeal is to workers’ interests and the aim is to rebuild countervailing power through assertive organising tactics.

The problem is that none of these possibilities appears to be able to engender the mixture of ‘movement’ and ‘organisation’ that trade unions have traditionally been able to rely on. Equally, combining the models, which is what many trade unions have been doing, does not seem to have the desired effect either. Similarly, a resort to merger and amalgamation is not helping as much as many advocates hoped - arguably, it means that too much time and energy is being spent on

internal administrative matters. Trade unions, it seems, face an increasingly hostile environment where they are 'objects' rather than the 'subjects' they used to be. Collective interests no longer 'exist' – they have to be constructed. In trying to do this, in Sims and Charlwood's words, trade unions face 'seemingly insurmountable challenges'<sup>48</sup>.

As for collective bargaining, further reductions in trade union membership may mean a decline in the coverage in the UK and the USA, but not necessarily so in countries such as Germany, France, the Netherlands and Sweden. This is above all true because of long-standing differences in the legal status of multi-employer agreements. Whereas in the UK, multi-employer agreements were grounded in procedural rules and were voluntary 'gentlemen's' agreements', in Germany, France, the Netherlands and Sweden they are rooted in substantive rules and are legally-enforceable contracts and codes; in many cases, too, statutory provisions for trade union recognition are nationally-rather than workplace-based.

Arguably, however, multi-employer bargaining is increasingly unlikely, except in rare situations, to take the form of the comprehensive contracts of old. The scope for company level negotiation is likely to be progressively widened as 'organised decentralisation' is taken further and sector agreements increasingly become 'framework' agreements, as many employers' organisations have argued. Another possibility is that twin-track arrangements emerge: large employers may abandon sector bargaining and establish their own company agreements, leaving the sector agreement to regulate the terms and conditions for medium- and small-sized companies. Also possible is what might be described as the 'Irish' solution: in smaller countries sector bargaining finds itself squeezed between the national and the company level. In principle, a shift in emphasis from the national sector to the EU sector is also possible - in many respects, this would be wholly consistent with the historical trend in which collective bargaining follows the product market. The problem, however, is that for many companies the product market is not regional, e.g. EU-based, but global. Arguably, the most that can be hoped for beyond the national state is the kind of broad frameworks that a number of the larger MNCs have entered into.

*Trade unions and collective bargaining – the end of an era?*

The critical point to make is that, with further decline in trade unions' 'structural' power, much will depend on the 'legitimacy' power society bestows on them. If policy makers want trade unions and collective bargaining to continue to play an important role – and, as Chapter 2 has suggested, there are good grounds for them doing so – they will need to take appropriate action to secure their survival. For example, legislative initiatives could be tailored to ensure implementation by collective bargaining and/consultation. The same goes for minimum wage legislation. More could also be made of provisions for the legal extension of collective agreements. In any event, one thing seems clear. If policy makers carry on as if nothing is happening, decline is likely to continue by default.

EMPLOYMENT RELATIONS MATTERS

**Table 9.1 Trade Union density (%)**

Year	EU	France	Germany	Netherlands	Sweden	UK	USA
1970	37.8	21.7	32.0	36.5	67.7	44.8	23.5
1980	39.7	18.3	34.9	34.8	78.0	50.7	19.5
1990	33.1	10.1	31.2	24.3	80.8	39.3	15.5
2000	27.3	8.2	25.0	23.1	79.1	29.7	12.8
2005	25.3	7.8	19.9	19.8	76.0	28.8	11.6
% change							
70-80	1.9	-3.4	2.9	-1.7	10.3	5.9	-2.5
80-90	-6.7	-8.1	-3.7	-10.4	2.8	-11.4	-4.0
90-00	-6.7	-1.9	-8.6	-2.0	-2.8	-10.0	-3.1
70-05	-12.5	-13.9	-12.1	-16.7	8.3	-16.0	-11.9

For further details of notes and sources, see Visser<sup>49</sup> and European Commission<sup>50</sup>.

*Trade unions and collective bargaining – the end of an era?*

**Table 9.2 Trade union density and collective bargaining (%)**

	France	Germany	Neths	Sweden	USA	UK
	2003	1997	2001	1997	2004	2004
Total	8.2	27.0	25.0	82.2	12.5	28.8
Men	9.0	29.8	29.0	83.2	13.8	28.5
Women	7.5	17.0	19.0	89.5	11.1	29.1
16-24			11.0	45.0	4.7	9.7
F/Time	-	-	27.0	90.0	13.9	31.5
P/time	-	-	19.0	83.0	6.4	21.1
Standard	-	-	26.0	-	-	29.5
Casual			10.0	-	-	17.2
Public	15.3	56.3	38.8	93.0	36.4	58.8
Private	5.2	21.9	22.4	77.0	7.9	17.3
Manufacturing	7.5	45.0	28.0	95.0	12.9	24.6
Collective bargaining coverage	95.0	63.0	82.0	92.0	13.8	35.0

For further details of notes and sources, see Visser<sup>51</sup>.

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## **Public policy – balancing flexibility and security?**

### **Main tasks**

- **Explain why the state plays such a pivotal role in employment relations**
- **Outline the changing agenda that policy makers have had to confront**
- **Consider the challenge of ‘casino’ capitalism**

### **Summary**

Although the nature and extent of the state’s role has differed from country to country, it has nonetheless been pivotal everywhere in shaping the governance framework of the employment relationship. Indeed, the state has come to assume the role of ‘guarantor of the employment relationship’. Historically, the main common concern was with industrial conflict - the machinery for handling disputes continues to be an important function. A recognition of the asymmetry of power in the employment relationship, coupled with the growth of a substantial working class with the vote, led to the introduction of individual employment rights and legislative support for employee ‘voice’ in the form of employee works councils and/or support for collective bargaining. From the 1980s the thrust of public policy changed reflecting intensifying international competition and the rise of ‘neo-liberalism’. ‘Flexicurity’ became the watchword. The need to guarantee employees a measure of security in terms of rights was to be offset by greater flexibility for employers in terms of hiring and firing, setting working time and bearing the costs of employment, leading to major changes in pension and social security arrangements as well as

legislation on the employment relationship. Also featuring has been legislation dealing with family friendly working – partly to achieve greater equality, but also partly to encourage greater participation by women in employment. More recently, it is the financial and economic crisis that has dominated. If this is intensifying pressure to achieve greater flexibility in the form of concessions to capital, it is also beginning to draw attention to the threat that the speculative behaviour associated with so-called ‘casino capitalism’ poses to the traditional functions of the work organisation in the development of human and social capital. Most of the attention is focusing on putting in place a regulatory framework that puts the break on such behaviour – this involves legislation dealing with the banks and the activities of hedge funds and other alternative investment funds. Takeover provisions are also under scrutiny. It remains to be seen whether the crisis leads to more radical thinking that brings into play ‘stakeholder’ arrangements or alternative forms of work organisation such as worker co-operatives.

### **Introduction: theories of the state**

As previous chapters have pointed out, the role of the state in employment relations has differed considerably from one country to another. In France, for example, this role has been all-pervasive and legal enactment rather than collective bargaining the dominant process. In the UK, by contrast, the state until recently largely stayed out of the area – ‘voluntarism’, ‘abstentionism’ and ‘collective laissez-faire’ were the guiding principles. In part, to develop a point in Chapter 3, this is because of differences in the timing and pace of industrialisation and in part because of very different conceptions of the role of the state. Be that as it may, the role of the state has been pivotal in every country with activity in four main areas. The first, and most obvious, takes the form of legislation dealing directly with the employment relationship or amendments to it such as the activities of trade unions and collective bargaining. The second might be described as the field of ‘employment policy’. Most governments have introduced measures to ensure employment training and skills. They have also funded employment exchanges - affecting the incentive to take employment and employment opportunities. The third is that of social protection. More or less encompassing measures have been

provided for dealing with the situation of those unable to work or no longer able to work – these include basic provision for illness, incapacity and old age. The fourth area is the overall legal and economic context within which employment takes place. Especially critical in the first instance is the legal framework of corporate governance. In the second, the nature and extent of fiscal and monetary policies stand out. Not to be forgotten either is that the state, in both its national and local forms, is a very large employer in its own right. Whether it likes it or not, the state is effectively responsible for setting standards across the broad swathe of employment relations policy and practice.

If what states ‘do’ is relatively transparent, the motivation for doing it is much more complicated. In the words of Heyes and Nolan, the role of the state is ‘one of the most complex and under analysed, across the social sciences’<sup>1</sup>. Complicating matters is that it is not only the nation state that has to be considered. In the case of European countries, the development of the European Union means that there is a transnational dimension to be considered as well – the EU is not a ‘superstate’ and yet is more than an inter-governmental organisation, with a not inconsiderable competence in employment relations.

Historically, as Heyes and Nolan describe, two main schools of thought emerged, albeit with a number of variants. For many years, the ‘pluralist’ perspective was dominant. Essentially, this sees power within society being dispersed between different organised interests groups, each of which has the opportunity to pressurise the state to advance its interests. From this point of view, the state is seen as being largely neutral - its job is to hold the ring and try to balance the interests with which it is confronted as best it can within an overall constraint of maintaining law and order. In the early days of capitalist development, this meant largely responding to the interests of employers. With industrialisation, the emergence of a working class, and universal suffrage, however, things became more complicated, with policy becoming a product of more or less recurrent bargaining with and between employers and trade unions.

At first sight, the second school of thought appears fundamentally different. Its starting point is Marx's comment in *The Communist Manifesto* that the state is but the ‘executive committee for managing the common affairs of the whole bourgeoisie’. Far from being neutral,

in other words, the state is very much on the side of capital and is so because the basis of society is the economy. As Marxist theoreticians have argued in later works, however, this does not necessarily mean that the state reflects the immediately expressed interests of capital or a particular group of capital. The state's 'structural' position in capitalist society means that its overriding concern has to be the long-run viability of a system of wage-labour relations rather than the interests of any one particular group - following Poulantzas, the state is said to enjoy 'relative autonomy'<sup>2</sup>. The result is that the state can appear to assume the role of the power broker that it has in the pluralist perspective.

More recently, with the domination of neo-liberal thinking, economists' viewpoints have gained sway. For economists, the 'market' is very much the preferred form of governance, with the role of the state stripped to the 'irreducible minimum'<sup>3</sup>. State intervention takes place (and, by implication, should only take place) in two main types of situation: first, where markets are deemed to be imperfect on account of natural monopoly; and, second, where markets lead to externalities, i.e. knock-on effects that create burdens for the wider society. Only in these cases is state intervention justified - in the first instance, to avoid the harmful effects of exercise of monopoly power by either employers or employees; in the second, to ensure that employers do not pass on unreasonable costs of their operations to society as a whole.

Arguably, all three perspectives are needed to help us to understand the role of the state: none of them is sufficient by itself. This is above all true because the issues that policy makers have had to confront have changed over time.

### **A changing agenda**

As Chapter 3 emphasised, the employment relationship involves flexibility and security. Following Crouch, a useful way of conceptualising the state's role is to think in terms of it having to manage the balance between employees' need for security and employers' requirements for flexibility<sup>4</sup>. Initially, the concern was to establish a stable framework within which the conduct of the employment relationship could take place. In this phase, the main emphasis was on achieving a sufficient level of security for employees

– it was in doing this that effectively became ‘guarantor of the employment relationship’. From the 1980s, there has been more emphasis on employers’ requirements for flexibility, reflecting developments in globalisation discussed in previous chapters, along with the dominance of ‘neo-liberal’ thinking.

*‘Guarantor of the employment relationship’*

Initially, having established the conditions in which the freedom of contract could thrive, the issue was how to deal with the conflict that inevitably followed from the conduct of the employment relationship. Typically, this manifested itself in crackdowns on the emergent trade unions. Relatively quickly, however, the balance of concern shifted with the state being obliged to do something about the adverse effects of the asymmetry of power in order to have a stable framework. In some cases, such as the UK, it meant factory legislation, along with slow and grudging support for trade unions and collective bargaining, coupled with the introduction of machinery for resolving disputes. In others, most notably Germany under Bismark, a raft of social security measures was introduced in an attempt to offer employees an alternative to the increasingly influential socialist agenda.

The explanation for the about face is that an approach grounded in ‘elite consumers’ and ‘insecure workers’, to borrow Crouch’s words, has major limitations<sup>5</sup>. First there are potentially ‘long-term social control problems’ - economic conflict may threaten the stability of the overall system. An up-to-date example is that of China: the state is refusing to clamp down on protest over particularly low wages and insisting that employers recognise independent forms of employee representation for the purposes of negotiating over the terms and conditions of employment. Second, a totally ‘free market’ risks the state incurring the ‘social cost’ of labour, helping to explain why minimum wage legislation is so widespread. As Chapter 2 explained, human capital can be compared to physical capital in that it requires some ‘minimum on-going expenditure for upkeep, repair and depreciation if the input is to be maintained for current production and replaced for future production’<sup>6</sup>. Unlike physical capital, however, human capital is not something that employers ‘own’ and so there is little incentive for them to take on this responsibility. If pay falls below its social costs, therefore, it is society that has to pick up the

## EMPLOYMENT RELATIONS MATTERS

bill, resulting in 'misallocation of resources and economic inefficiency'<sup>7</sup>. Another consideration is that some employers have wanted the state to intervene to prevent under cutting – indeed, the prevention of under cutting was one of the reasons Winston Churchill advanced in the UK in 1909 for introducing statutory minimum wages to be set by Trade Boards.

A third consideration reflects the development of a consumer society and the 'welfare state' in which the state and its agencies became a very large employer in their own right. On the face of it, developments here appear to confirm to the 'pluralist' model of the state – policymakers respond to pressure from a growing working class, along with the trade unions and political parties which campaign on its behalf. It was not quite as straightforward as this, however As Chapter 2 pointed out, a key consideration in the state becoming 'guarantor of the employment relationship'<sup>8</sup> was the need to ensure that employees would be able to achieve sufficient levels of purchasing power to be 'confident consumers'<sup>9</sup>. Indeed, sustaining consumers who generate demand and hence profitability and growth became a core element of macroeconomic policy.

Developments went furthest in Europe, with the term 'European social model' acquiring widespread currency. At the risk of oversimplification, the model was predicated upon three fundamental principles<sup>10</sup>. These were the right to work, including commitments to full employment and active employment policies; the right to social protection, involving encompassing basic social security cover for the non-working population; and the right to civilised standards in the workplace, covering issues of employment governance or regulation. Two further common features that came to be associated with the model were a relatively egalitarian wage and income distribution and a high degree of interest organisation on the part of employers and employees<sup>11</sup>. Seemingly, it represented a settlement of sorts.

The 'European social model' became the one for countries to aspire to. Thus ILO developed a list of the different forms of employment security, which will be found in Table 10.1. While all seven dimensions are important, the ILO emphasised, two are essential for basic security: income security and voice representation security. The ILO goes on to explain that the initiative is dedicated to the achievement of what it calls 'decent work' or the 'dream of helping to ensure that more people across the world find opportunities

to work in dignity, for the benefit of their families, communities and themselves'<sup>12</sup>.

### *'Flexicurity'*

In 1980s the mood changed and with it the issues that policy makers had to confront. With the increasing dominance of neo-liberal thinking, the European 'social model' began to come under attack. Employment relations' links with competitiveness came to dominate policy discourse – the balance between flexibility and security, it seemed, had gone too far in favour of the latter. In Bordogna and Cella's words, employment relations became the 'villain of the piece'<sup>13</sup>, the European model being unfavourably compared to the US equivalent. At the risk of caricature, key features of the former were seen as an emphasis on employee rights introduced by collective bargaining and/or legal enactment, leading to security of employment and relatively high levels of wages and conditions. But there were downsides - inflexibility, a lack of competitiveness and high levels of unemployment. The US model was deemed to be the opposite. There may have been considerable insecurity, lower levels of wages and poorer working conditions for many, reflecting weak employee protection and 'hire-and-fire' practice. Management was much freer of the restrictions of collective bargaining and legal regulation, however, supposedly leading to greater flexibility, improved competitiveness and a much lower rate of unemployment than in Europe.

The overall context was set by the widespread shift of emphasis of macro-economic policy from the demand to the supply-side. To paraphrase Wilhagen, four main factors can be highlighted: the fast pace of international economic integration - the creation of the Single European market and the single European currency was especially important here; the rapid development of new technologies, particularly in the information and communication areas; the demographic ageing of European societies, together with relatively low average employment rates and high long-term unemployment, which put at risk the sustainability of social protection systems; and the development of segmented labour markets in many countries where both relatively protected and unprotected workers coexist (so-called 'insiders' and 'outsiders')<sup>14</sup>.

## EMPLOYMENT RELATIONS MATTERS

Policy makers responded by seeking to shift the balance between the security associated with the traditional model and the greater flexibility that employers were deemed to require. In the UK, the talk was of ‘fairness and flexibility’ and finding a ‘third way’. In continental Europe, the term ‘flexicurity’, which originated in Denmark, became the watchword. Although there have been different interpretations, a broad consensus emerged about the four basic components involved:

- *Flexible and reliable contractual arrangements from the perspective of the employer and the employee.* In the case of ‘employees’, however, it is not just a matter of ‘insiders’, i.e. those who were already in employment, but also ‘outsiders’, i.e. those potential employees who were being denied opportunities because of the privileges enjoyed by ‘insiders’. The main instruments were modern labour laws, collective agreements and the reform of work organisation allowing for the reconciliation of employment and family responsibilities,
- *Comprehensive lifelong learning strategies.* Here ‘employability’ became the watchword. In other words, training and development were to be designed not just to ensure the continual acquisition and upgrading of competencies and skill of workers in their existing organisations, particularly the most vulnerable, but also to make it easier for them to find employment with other employers in the future.
- *Effective active labour market policies.* These were to help people cope with rapid change, reduce unemployment spells and ease transitions between different ‘labour market’ situations (from school to work, from one job to another, from unemployment to work and from work to retirement),
- *Modern social security systems embracing unemployment benefits, pensions and healthcare.* Here the emphasis was to be not just on adequate income support, but also on the encouragement of employment and labour market mobility. This includes broad coverage of social protection provisions, including those that help people combine work

with private and family responsibilities such as childcare<sup>15</sup>.

As previous chapters have explained, public policy put a great deal of emphasis on the ‘supply’ side of the employment relationship, reflecting the increasing dominance of ‘neo-liberal’ thinking. In many countries, there were reforms of employment protection legislation making it easier for employers to hire and fire<sup>16</sup>. As Chapter 5 outlined, there were also important changes in pensions and social security provisions, along with those of training. At sector and company levels, as Chapters 5 and 9 pointed out, there was a shift in emphasis in collective bargaining from ‘distribution’ to ‘integration’, with the agenda more and more dominated by employers.

By contrast, relatively little was done to influence the ‘demand side’ – in the language of the debate in the EU it was more about promoting ‘activation’ than ‘capability’<sup>17</sup>. The European Commission’s 1997 Green Paper, *Partnership for a New Organisation of Work*, which had advocated wide ranging changes in work organisation, was quietly forgotten. Similarly, little came of the recommendations of the Commission’s Higher Level Group report on restructuring, which included that all companies with more than 100 employees should produce a management of change report in consultation with employees and their representatives. In 2001, the European Commission drew up the list of indicators of ‘job quality’ that were to be the basis for national bench marking. Here, too, however, the main emphasis was on the ‘supply’ rather than the ‘demand’ side. Significantly, issues such as ‘intrinsic job quality, ‘work organisation and work-life balance’, and ‘social dialogue and worker involvement’ also did not become subjects of the ‘open method of co-ordination’<sup>18</sup>. If anything, the situation was even bleaker in the UK. In 1997, the in-coming Labour Government agreed to incorporate the chapter in the EU Treaty in important respects, little changed. Thereafter, however, Labour Governments not only consistently opposed further developments in the social dimension, including the information and consultation Directive and the inclusion of the Charter of Fundamental Rights in the EU Treaty. But they also put themselves at the forefront of articulating the alternative neo-liberal vision to the European ‘social’ model based on making labour markets ‘work’ more effectively. At home, they introduced a workplace-based statutory procedure for trade union recognition, but

otherwise did little to increase the ‘legitimacy power’ of trade unions or collective bargaining. Indeed, as Appendix 1 argues, they missed opportunity after opportunity to deal with what might be described as the UK’s institutional ‘gaps’.

Even so, timing and context also continued to be fundamentally important in helping to explain unfolding developments - ideology was not everything. An excellent example is the development of the EU's social dimension and its implications for the 'juridification' of the employment relations in the UK. For three decades or more, ‘neo-liberalism’ has reigned supreme in the UK and the balance of power between capital and labour has changed considerably. The decline in membership and the coverage of collective bargaining means that trade unions are no longer the pressure group they used to be in former times. By contrast, capital has grown considerably in influence reflecting its globalisation – policy makers, it seems, have become terrified of offending the 'markets'. Meanwhile policy responsibility for employment relations has become extremely fragmented, with no single focus and few people of experience and expertise responsible for it. Yet it is during this period that the UK has experienced a vast increase in legislation dealing with employment relations. In part, as Chapter 3 explained in discussing the process of ‘juridification’, one of the great ironies is that privatisation and deregulation do not automatically bring about a reduction in the role of state as proponents expect - the uncertainty which such developments bring is a potential source of conflict leading to further regulation. In part, as Chapter 4 explained in discussing the importance of ‘critical junctures’, it reflects the contested nature and timing of the introduction of the Single European Market - ‘social Europe’ was a by-product of 'economic Europe' and the relative lack of legal regulation of the employment relationship meant that UK had to play ‘catch up’. To illustrate this point, and the complexities of the issues involved, Table 10.1 gives an overview of some of the many considerations that were involved.

### *Public sector reform*

The reason for singling out the public sector is that the state employs either directly or indirectly something between a fifth and a quarter of the workforce in most countries – the wages bill is a very considerable

element in public expenditure. Public sector employment is also distinctive in several respects. As well as employing a relatively high proportion of professional workers, above all in sectors such as health, social services and public administration, it has many employees in relatively low paid jobs. The proportion of women employees is also higher than that of the private sector. Last, but by no means least, the setting of the terms and conditions of employment tends to be highly centralised in the interests of mobility and consistency.

In these circumstances, and because of the potential impact of strikes, public sector employment relations have a high profile. For much of the post-world war 2 period, there was a widespread consensus that state should be ‘model employer’ setting the example for employers in the private sector. This is true of both the substantive terms and conditions of employment and the procedures and processes by which they were established. The following description of the situation in the UK could be applied to the other countries included in the comparison:

From 1945 onwards, public sector employment in health, education and social services grew rapidly as part of the development of the welfare state ... the state was a ‘model employer’ setting an example to the private sector by endorsing principles of fairness, involvement and equity in its treatment of its workforce. These principles were associated with the encouragement of trade union membership, support for centralised systems of collective bargaining and other forms of workforce participation which encouraged the expression and resolution of grievances<sup>19</sup>.

This manifested itself in relatively generous pension arrangements and other terms and conditions. The pay of lower paid employees also tended to be higher than those in the private sector. As the previous chapter has shown, levels of unionisation were much higher in the public than the private sector and collective bargaining greater in its coverage. Public sector bodies were also to use their control of contracts to disseminate good practice more widely, for example, in the area of equality and diversity.

The 1980s saw two major developments that have changed very considerably the ‘model employer’ status with implications for the conduct of the employment relationship more generally. One was a

programme of privatisation. Some privatisation reflected domestic government agendas, most notably in the UK, where it affected the nationalised utilities such as gas, water, electricity and telecommunications. Others were because of wider considerations. In the case of EU member countries, for example, some privatisation resulted directly from policies promoting the rationalisation of sectors such as steel or the opening up of previously closed markets to European-wide competition, as in energy, telecommunications and airlines. In any event, the result was that considerable numbers were transferred from the public to the private sector and exposed to wider commercial pressures discussed in Chapter 9.

The other development was the ‘new public sector management’ (NPM) approach encouraged by the OECD, the World Bank and the International Monetary Fund. In Heyes and Nolan’s words, ‘The central principle of NPM is that systems of public administration can be strengthened through the adoption of micro-management practices associated with the private sector’<sup>20</sup>. The ‘divisionalisation’, ‘budgetary devolution’ and ‘marketisation’ that featured in Chapter 8 are important here. They make it possible to put ‘greater emphasis on measuring the performance of government departments and non-departmental public bodies ... through setting targets and evaluating outcomes, improved accountability and coordinated policy development and service delivery’<sup>21</sup>.

The upshot is that the main principles that Bach identified above were over-turned. The public sector was no longer to set the trend. Rather the reverse was the case: ‘marketisation’ meant that terms and conditions of employment were to reflect those in the private sector. In the UK, as Chapter 8 suggested, centralised and detailed targets, very often reflecting short-term political pressures, were introduced with little or no serious consultation with trade unions or their members, undermining the legitimacy of collective bargaining and social dialogue.

### **The challenge of ‘casino’ capitalism**

The financial crisis that swept the world in 2007-9 has heightened considerably the policy dilemma at the heart of the ‘flexicurity’ debate. The origins of the crisis, which lie in the growth in financial intermediation and the activity of the financial sector, also emphasise

the fundamental nature of the problem. One is the globalisation of economic activity following the liberalisation of finance and financial markets in the 1980s. In Wolf's words writing before the crisis,

Over the past quarter-century ... almost all ... regulations have been swept away. Barriers between commercial and investment banking have vanished. Foreign exchange controls have disappeared from the high-income countries and have been substantially, or sometimes even completely, liberalised in many emerging market economies as well. The creation of the euro in 1999 accelerated the integration of financial markets in the Eurozone, the world's second largest economy. Today, much of the global financial sector is as liberalised as it was a century ago, just before the First World War<sup>22</sup>.

The other consideration is the revolution in computing touched on in Chapter 8. In Wolf's words again,

This has permitted the generation and pricing of a host of complex transactions, particularly derivatives. It has also permitted 24-hour trading of vast volumes of financial assets. New computer-based risk management models have been employed across the financial sector. Today's financial sector is a particularly vigorous child of the computer revolution<sup>23</sup>.

Also important were the implications of the resulting shift in the distribution of income from labour to capital raised in Chapter 2. Wage earners were encouraged to increase their debt to maintain the standard of living. But reliance on 'house price Keynesianism'<sup>24</sup> or 'privatised Keynesianism'<sup>25</sup> was only likely to be a temporary answer as events proved it to be. It was in the housing mortgage market in the UK and the USA that the financial crisis was immediately triggered.

Arguably, the underlying problem is that the extent of the flexibility capital expects/requires poses a fundamental challenge to employment relations as they had developed as the basis of the economic system. In Crouch's words, 'A modern market economy based on mass consumption ... requires the majority of workers to have enough sense of certainty in their economic lives to be confident consumers'<sup>26</sup>. But the developments in financial markets since the liberalisation of the 1980s make this increasingly difficult. One

consideration is the speculative behaviour of a relatively small group of organisations such as hedge funds, which have little interest in ownership of a particular share. Rather they take advantage of share trading systems which allow them to buy and sell in a Nano second to speculate. Indeed, a widely used practice is that of ‘short-selling’, where the hedge fund effectively bets on a decline in the price of the shares that it borrows with a view to buying them back at cheaper price and so on. As Chapter 8 explained, an important side-effect was clearly illustrated in the case of the Kraft takeover of Cadbury, the confectioner manufacturer in 2010. Cadbury’s fate was effectively sealed by fewer than less than a third of its shareholders, leading to charges from ministers that traditional institutional shareholders such as pension funds and insurance companies were acting, in the words of the then city minister, Lord Myners, like ‘absentee landlords’<sup>27</sup>. Another has been the emergence of private equity groups with the ability to borrow (‘leverage’) substantial sums of money on the basis of future returns. In this case, the debts that are incurred can destroy the business. In the words of John Moulton, who is himself a major player in the private equity industry, some deals are tantamount to ‘betting jobs against shareholder returns’<sup>28</sup>. A third consideration, underpinning these developments, has been a change in the role that the banks have played. No longer, it seems, is their prime objective to lend to businesses to produce goods and services. Rather it is to maximise the returns from the development of business involving other financial institutions. Central to this has been a raft of instruments that policy makers, let alone members of the public, are only just beginning to become aware of. Perhaps the most notorious are the ‘credit default swaps’ that started out as a form of insurance against the possibility that an individual or company would renege on debt. Trading in these ‘derivatives’ became a business in its own right, leading to the development of a ‘shadow’ banking system where no one knew the risks being taken. Ironically, in the process, the divisions of the banks involved – notably the investment banks – have come to resemble a form of workers’ cooperative discussed in Chapter 6. In Kaletsky’s words,

The peculiarity of the banking business ... is that boards of directors, instead of representing the interests of shareholders, have maximised the earnings of the employees. Banks, perhaps

because of the partnership culture in the hedge funds with which they must co-exist, have increasingly been managed as worker cooperatives, in which the interests of the workers came first and those of outside providers of capital were treated as an afterthought'.<sup>29</sup>

Adding insult to injury is the difficulties that governments are having as the result of the sovereign indebtedness incurred in helping the banks to recover. Triggering this phase of the crisis was the situation in Greece and other Eurozone countries in 2010. The whole basis of public finances has come to be questioned, with austerity measures being introduced in country after country to cut budget deficits and appease the bond markets. In effect, critics say, governments are being asked to accept the 'privatisation of gains' and the 'socialisation of losses'<sup>30</sup>.

Initially, there was some recognition of the wider issues involved, with questions being asked about the supremacy of politics or 'the markets'. This is above all true of continental European countries, where it was widely recognised that the crisis represented a fundamental threat to the 'European social model'. Very quickly, however, the main emphasis turned to fixing the system/ getting back to business as usual as quickly as possible. Most attention focuses on the situation of the banking sector and the 'shadow' derivative markets. Along with new forms of taxation on bank profits and bonus payments, proposals for reform include the break-up of the big banks, the separation of retail banking from capital market banking, restrictions on proprietary trading and ownership of hedge funds by banks, and raising the level of capital that banks are required to hold. Greater transparency is also being demanded, with derivatives and other features of 'shadow banking' being moved on to exchanges.

A second group of proposals target the process of 'financialisation' and the operation of the 'casino economy'. They include more stringent controls over the activities of hedge funds and alternative investment fund managers such as private equity companies, along with practices such as 'short-selling' and 'leveraged buy-outs'. In the UK, the 'Takeover' panel is currently considering these. Much greater transparency of behaviour is also likely to be required. In the EU, for example, there is a directive dealing with alternative investment fund going through the system as this text was in preparation.

## EMPLOYMENT RELATIONS MATTERS

A third group deals with company stewardship and corporate governance. In the UK, reflecting the Cadbury experience, specific proposals include a short-term capital gains tax for shareholders who take early profits from selling their shares; making takeovers subject to more stringent criteria so that the opportunity for unlocking short-run shareholder value is more difficult; putting a stop to 'leveraged' takeovers – the emphasis should be on equity rather than debt; stripping short-term holders of voting rights and raising the acceptance level required for takeovers; and reducing the time table. There are also proposals to allow a 'public interest' defence in the event of hostile takeovers.

As the crisis has gone on, there have also been calls for another look at the purposes of companies. In the UK, in a speech at the Chartered Institute for Securities & Investment conference in London on 19 June 2010, Hector Sants, Chief Executive of the Financial Services Authority (FSA), suggested that greater intervention was needed from regulators to ensure decisions made by firms deliver the outcomes society expects:

Historically regulators have avoided judging culture and behaviour as it has been seen as too judgemental a role to play. However, given the issues we continue to see over time, I believe this one-dimensional approach has to be questioned. Every other aspect of the regulatory framework is under scrutiny and we should not shy away from debating the culture question ...

I would strongly advocate intervention in the UK through changing the Companies Act framework for directors, for example. The current requirement for directors is to promote the success of the company. This is often interpreted in terms of shareholder value. Whilst this does include the need, for example, to 'have regard to' the impact on the community, I do not believe that is sufficient. There must be a stronger and more explicit obligation to wider society. There must be clear recognition of the need for institutions to contribute to the common good.

The last time there was an active debate about the relative merits of the 'stakeholder' and 'shareholder' models in the UK was in the mid-90s. Proponents of the 'stakeholder' model like Hutton argued that 'The great challenge – after the experience of both state socialism and

unfettered free markets – is to create a new financial architecture in which private decisions produce a less degenerate capitalism ... The triple requirement is to broaden the area of stake-holding in companies and institutions, so creating a greater bias to long term commitment from owners, to extend the supply of cheap long term debt, and to decentralise decision making<sup>31</sup>. Ironically, among the many opponents of stake-holding was Adair Turner, then Director-General of the CBI and now, Sants' Chairman at the FSA. Referring to 'stake holding', Turner wrote in 2001,

It all sounds rather attractive. But as a guide to practical policy it is at best a cul-de-sac, at worst dangerous. It sounds attractive to ask corporations to think through the social 'balance sheet of gains and losses' but in practice it is an almost inoperable principle. Corporations can just about imperfectly identify the complex set of actions which will maximise their own profit within given constraints, but they are ill-equipped to calibrate the second and third and nth order social consequences of their actions and lack the legitimacy to make the trade-offs involved<sup>32</sup>.

For Turner, capital-market pressures drive economic efficiency; the good society has to be achieved by other means. Indeed, a particular danger of pursuing the stakeholder approach, he went on to suggest, was that it would divert attention from 'those specific interventions - redistribution, collective-goods provision, or regulation - which will make capitalism more humane'<sup>33</sup>.

At the time of writing towards the end of 2010, it remained unclear how robust the response to the challenge of 'casino capitalism' would be. Some commentators seem to think that sufficient measures will be introduced in the areas discussed above to ensure that the worst effects of 'financialisation' will be curbed. But there are as yet few signs that the threats to the traditional model of the employment relationship are being understood, let alone a serious debate taking place about the 'specific interventions' needed to deal with them. In the UK, as the CBI's *The next 10 years* report mentioned in Chapter 8 suggests, there seems to be a recognition by senior managers of the need to move away from the short-termism fuelling 'permanent restructuring'. It is extremely doubtful, however, whether they will be willing to contemplate the type of change in company objectives that

Sants calls for. The same is true of proposals for increasing employee rights under acquired rights and collective redundancy legislation in ways that considerably raise the costs of behaviour that has potentially damaging consequences for employees and their local communities. Equally, although the idea of worker cooperatives has resurfaced, there is little discussion of how these or other alternative models of business organisation might be promoted on any sizeable scale.

The problem is that the best of times is also the worst of times. Trade unions are too weak to promote anything like the level of crisis that the banks have. The HRM function does not have the clout necessary to promote a serious debate and its energies are likely to be absorbed in dealing with the redundancy and insecurity following the financial crisis. Looking at government, there is no evidence that the lessons from the financial crisis are being read across to employment, let alone a recognition that there are major implications for its role as ‘guarantor of the employment relationship’ – with the recession biting, the main emphasis is on reducing the budget deficit, which means cuts not only in employment, but also in its terms and conditions. In the circumstances, the most likely outcome is a further worsening of the returns to labour. Coupled with the further development of an ‘hour glass’ economy, in which the middle is increasingly hollowed out by technological change, the prospect is of a society in which ‘only the elites [will be able] to confidently consume, while workers work flexibly and can hardly afford to consume beyond subsistence levels’<sup>34</sup>. It is also a recipe for continuing instability in financial systems as well as demoralisation and lack of engagement. Pessimistic as these conclusions will read, they are difficult to avoid.

**Table 10.1 How ‘economic’ Europe contributed to ‘juridification’<sup>35</sup>**

There are two main views about the reasons for what has been described as a ‘fundamental asymmetry’<sup>36</sup> between the economic and social dimension of European integration<sup>37</sup>. One sees the asymmetry as flowing from the essentially economic nature of European integration: in Delors’ words ‘L’Europe de la nécessité’ rather than ‘L’Europe de l’idéal’<sup>38</sup>. A second view contends that economic integration was ‘deliberately underdeveloped’<sup>39</sup>. For the monetary authorities and employers’ organisations especially, a process of market-led harmonisation was precisely what was attractive about EMU’s construction. It would be impossible as well as undesirable to regulate social policies at supranational level. To remain competitive, however, countries would have to restructure their domestic economies in order to get rid of inefficiencies in their national welfare states and labour markets.

Trade unions and their political allies were well aware of this thinking. There were worries that ‘economic Europe’ would deliver a ‘nightmare’ rather than a ‘dream’<sup>40</sup>; that the European Central Bank, in seeking to fulfil its remit to maintain price stability, might set an unduly restrictive monetary policy thereby triggering deflation. If so, the burden of the subsequent adjustment would fall on wages and employment along with social protection systems. The same would hold in the face of asymmetric shocks, given the absence under EMU of the adjustment mechanisms available in other currency zones. Much as they have during the global financial crisis, governments would have to squeeze public expenditure, including that on social protection, while employers and trade unions would come under pressure to reduce labour costs in exchange for sustaining employment.

Even so, most trade unions supported the EMU project. Alongside interests in the economic benefits, Foden identifies two main considerations. One might be labelled ‘the Europeanisation of economic policy making’. Individually, Euro zone countries would find it difficult to take action to promote the expansion of their domestic economies to create jobs – ‘Keynesianism’ was no longer possible in one country, it was argued, whereas the prospects looked much brighter if Europe became more of an entity. The other lay in the possibility of exerting influence over the wider political agenda: ‘In essence, the ETUC has been a supporter of, and in part, an actor in, the strategy of building ‘economic Europe’ as a means of promoting ‘political Europe’, and in particular, social Europe’<sup>41</sup>. ‘Political’ and ‘social’ Europe, in other words, were expected to be ‘spill-over’ effects of ‘economic’ Europe<sup>42</sup>.

In the event, the outcome was an uneasy compromise: there was more ‘social’ Europe than many employers would have liked, but much less that

## EMPLOYMENT RELATIONS MATTERS

the ETUC wanted. But for the UK, which was in a unique position because of the tradition of ‘voluntarism’, even the codification and extension of measures already available in most other countries meant that the so-called *acquis* touched on virtually every area of employment relations other than association, industrial action and wage determination. Listing only those areas where there has been major UK legislation gives us freedom of movement of workers; equal opportunities in terms of age, disability, gender, race, religion and sexual orientation; health and safety; collective redundancy and business transfers; working time; the proof of employment; information and consultation – both national and cross-national; maternity and parental leave; equal treatment for part-time and temporary workers (with agency workers to come); pensions; employment agencies; data protection and corporate governance. Policy makers in other countries might have been opposed to the advanced social model that the ETUC was seeking, but they were not prepared to allow the UK to benefit from its inferior employment protection. As well as the free movement of labour, a single market and a single currency needed a level playing field in areas such as working time, health and safety, and so on.

**Table 10.2 Types of employment security<sup>43</sup>**

**Income security** denotes adequate actual, perceived and expected income, either earned or in the form of social security and other benefits. It encompasses the *level* of income (absolute and relative to needs), *assurance* of receipt, and *expectation* of current and future income, both during working life and in old age or disability retirement. Income security protection mechanisms include a minimum wage machinery, wage indexation, comprehensive social security, and progressive taxation.

**Representation security** refers to both individual representation and collective representation. *Individual representation* is about individual rights enshrined in laws as well as the individuals' access to institutions. *Collective representation* means the right of any individual or group to be represented by a body that can bargain on their behalf and which is sufficiently large, sufficiently independent and sufficiently competent to do so. Independent trade unions with the right to collectively bargain over wages, benefits, and working conditions as well as to monitor working practices and strike have been typical forms of granting representation security.

**Labour market security** arises when there are ample opportunities for adequate income-earning activities. It has a structural component, in that it represents the types and quantity of opportunities. Furthermore, it has a cognitive side, as it also features expectations that opportunities are or will become adequate. Policies aimed at enhancing this form of security have included full-employment oriented macro-economic policies, the creation of employment agencies, and other placing services.

**Employment security** is protection against loss of income-earning work. Employment security exists in organisations and countries, in which there is strong protection against unfair or arbitrary dismissal and where workers can redress unfair dismissal. For the self employed, it means protection against sudden loss of independent work, and/or business failure. Typical forms of enhancing employment security have been protection against arbitrary dismissal, regulations on hiring and firing, and imposition of costs on employers for failing to adhere to rules.

**Job security** signifies the presence of niches in organisations and across labour markets allowing the workers some control over the content of a job and the opportunity to build a career. Whereas employment security refers to the opportunity of a worker to continue working in an enterprise, job security refers to the worker's ability to pursue a line of work in conjunction with his or her interests, training and skills. Protection mechanisms have consisted of barriers to skill dilution such as craft boundaries, job qualifications, restrictive practices,

## EMPLOYMENT RELATIONS MATTERS

craft unions, etc.

**Work security** denotes working conditions in organisations that are safe and promote workers' well being. Classic "occupational health and safety" provisions shielding workers from occupational hazards, diseases, and injuries are an integral part. Work security goes beyond this, though, in addressing the modern scourges of stress, overwork, absenteeism, and harassment. Protections include provisions and insurance against accidents and illness at work, and limits on working time.

**Skill reproduction security** denotes workers' access to basic education as well as vocational training to develop capacities and acquire the qualifications needed for socially and economically valuable occupations. Ways to further skill reproduction security include policies to generate widespread opportunities to gain and retain skills through education, apprenticeships, and employment training.

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## **Appendix**

### **The UK in comparative perspective**

#### **Main tasks**

- **compare the impact of employment relations in the UK with that in other countries**
- **highlight the distinctive features of the UK's employment relations and corporate governance frameworks that help to account for this impact**
- **suggestions for plugging some of the UK's institutional 'gaps'**

#### **Summary**

The UK compares relatively unfavourably on many of the indicators associated with the impact of employment relations. The employment rate may be higher in the UK than other countries. Yet its quality is relatively poor and the levels of pay low, resulting in relatively high levels of poverty and inequality, with implications for social mobility. Work organisation in the UK is typically rooted in the 'lean' and 'traditional' models with extensive managerial hierarchies, which is not only bad for people's personal development and long-term health, but also extremely inefficient, helping to account for the UK's relatively poor competitiveness performance: working longer hours, higher levels of supervision and proportionately more senior managers, it seems, are no substitute for employees working smarter, while 'numerical' flexibility is inferior to 'functional' flexibility. As well as the type of work organisation, there are other institutional features that help to understand the impact employment relations has

in the UK. Employment protection legislation is limited, which means insecurity and a reluctance to embrace change. The decline of collective bargaining, above all at sector level, means that large sections of the workforce no longer enjoy the benefits of the additional standards that come from collective agreements. Coupled with the absence of any provision for national social dialogue, it also means that the role, status and membership of key intermediary organisations such as trade unions and employers' organisations have been seriously affected: the UK no longer possesses the networks necessary for co-coordinating continuous improvement in key areas of personnel practice – training is perhaps the most obvious example. Along with limited employment protection, the relative lack of employee 'voice' – at workplace, sector and national level – means that employment is not contributing to social capital development to the same extent as it is in other countries. Also fundamentally important are the 'financialisation' and 'permanent restructuring' that the UK's corporate governance institutions have encouraged. These have made it very difficult for operating managers to develop any consistency in approach to employment relations, let alone create the long-term relationships that the 'learning' model requires. They have also discouraged the pursuit of business policies that emphasise quality products and services, helping to explain the UK's relatively poor overall competitive position. Encouraged by the weakness of trade unions and an institutional framework favouring 'numerical' rather than 'functional flexibility', many UK managers continue to compete on the basis of low-wage and low-skill labour with the wide ranging implications for poverty, health, quality of family life and competitiveness discussed in Chapter 2.

## **Introduction**

Having considered the impact of employment relations in a number of key areas, along with the nature and extent of the evidence for the links in Chapter 2, this Appendix turns to comparing and contrasting the UK with other countries. It is early days in the collection of robust cross-national comparative data dealing with issues such as social capital. As the European Commission points out in its *Industrial Relations in Europe 2008* report, 'Data are missing for comparing systematically, and quantitatively, the contribution of industrial

relations, exploring differences across Member States and regimes, sectors, instruments and issue areas ... This is above all true of data that would make possible a multivariate approach<sup>1</sup>. This means that very little can be said about employment relations' relative impact - clearly, for example, employment relations are not the only explanatory variable in the case of health or social capital development. Even so, there are a number of areas where comparable data exist, in particular courtesy of the four main international organisations and their agencies, i.e. the European Commission, the International Labour Organisation, the Organisation for Economic Cooperation and Development and the United Nations. It is these data that structure the discussion that follows. To quote the European Commission again, 'if used with wisdom, the comparison of achievements and successes, or failures, across countries or regimes remains a useful learning device both for academics and practitioners, from which inspiration can be drawn<sup>2</sup>.

To ease the problem of digestion, five countries have been selected as the basis of comparison with the UK – France, Germany, the Netherlands, Sweden and the USA. Each of these is a major competitor and/or characterised by different institutional frameworks of employment relations, reflecting state tradition and/or national business system: France is an example of the 'Latin' model, Germany and the Netherlands the 'Rhineland', and Sweden the 'Nordic'<sup>3</sup>. The USA is included because of its size and because it is often bracketed together with the UK on account of both its legal framework of employment relations and its brand of 'shareholder' capitalism.

### **Social indicators**

An area where the UK compares relatively favourably is occupational safety. According to the most recent data from Eurostat published by the HSE, it emerges that in 2005:

- The British rate of work-related fatal injury (1.4 per 100,000 workers) was the lowest across the EU, the average rate, excluding transport accidents, being 2.3 per 100,000 workers.
- The British rate of workplace non-fatal over-3-day injuries at 1,271 per 100,000 workers was the third lowest among EU member states.

- Industries reporting above average incidence of fatal and serious injuries were agriculture, construction, manufacturing and transport<sup>4</sup>

Further data on occupational health are available from the European Foundation's fourth working conditions survey. In their answer to the question 'Does your work affect your health?', only a fifth of UK respondents responded affirmatively, putting the UK at the bottom of the list<sup>5</sup>. All the other five countries reported higher levels, with the EU average being 35 per cent. The proportion taking leave because of ill-health was also less than Germany, the Netherlands and Sweden. Only France had a smaller proportion<sup>6</sup>.

Arguably, fatal and non-fatal injuries at work are the exception that helps to prove the rule. As a later section points out, it is in this area that the UK not only has extensive legislation guaranteeing employee 'voice' at the workplace level, but also long established social dialogue institutions in the form of the HSE. It is wholly consistent with the arguments of previous sections that it is because of these arrangements that health and safety policies and practices in the UK enjoy a very particular legitimacy.

A different picture emerges, however, in the case of mental health. Wilkinson and Pickett's have brought together the evidence from the WHO World Mental Health Survey Consortium) and national studies for Australia, Canada and the UK featured in Part 1. Consistent with the extensive income inequality, it emerges that the UK had one of the highest levels of mental illness of the 12 countries. Indeed, only the USA had a higher level. In the UK, more than one in five people had a mental illness, whereas in Germany fewer than one in ten did<sup>7</sup>.

The UK's comparatively good showing in occupational safety also fails to be repeated in the case of *occupationally-related health*. As the Black report observes, life expectancy is the most commonly used comparative indicator of overall health, being based on objective mortality data collected routinely in most countries<sup>8</sup>. There are two measures: overall life expectancy calculated from birth and the probability of dying before reaching the age of 60. Here our source is the United Nations Development Programme's (UNDP) 2007 collection of Human Development Indicators. As will be seen from Table A1 (Row 2), overall life expectancy in the UK was 79 years in 2005, which is higher than that of the USA, but less than the other EU

countries. The probability of dying before the age of 60 (Row 3) in the UK was on a par with France, Germany and the Netherlands, but some way behind Sweden. Arguably, for the reasons discussed in Part 1, these results reflect differences in work organisation, along with levels of income inequality, more of which below.

For *poverty* and *inequality*, our source is again the UNDP's 2007 collection of Human Development Indicators. Row 4 of Table A1 gives details of the proportion of the population living below the poverty line. The UK clearly stands out: the proportion of the population below the line (12.5 per cent) is almost twice that in Sweden and one and half times that in the Netherlands, Germany and France. Only the USA has a higher proportion in this state.

Row 5 of Table A1 gives details of the Gini coefficient, which it will be recalled is an overall measure of the spread of a country's income distribution between the highest and lowest earners – the higher the figure, the greater the income inequality. It will be seen that, at 36.0, the UK again stands out, the level of income inequality being only exceeded by that of the USA.

The UK also has a large gender pay gap. In 2006, according to the calculation of the TUC based on the European Commission's *Equality Between Women and Men – 2008*, the gender pay gap stood at 20 per cent in the UK, which is a third higher than the 27 country EU average of 15 per cent. Of the larger EU members, only Germany had a bigger gap (22 per cent)<sup>9</sup>.

To achieve their levels of pay, many UK employees also have to work longer hours than their counterparts in most other countries, thereby intensifying the impact of employment on health and family life. Eurostat figures compiled by the European Commission for its 2008 report suggest that, while overall average hours worked in the UK were similar to those other countries (i.e. around 40 hours), the proportion of the workforce working more than 48 hours was the highest in Europe even taking into account the new member states. At 18 per cent, it was more than twice the EU average at 8 per cent. The proportion of the workforce working more than 48 hours in Sweden was 1.6 per cent and in the Netherlands 1.1 per cent<sup>10</sup>.

Working longer does not necessarily mean working harder, however. The same European Commission report draws on the European Foundation's 2005 survey of working conditions to produce an index of work intensity combining answers to questions about

‘working at a very high speed’ and ‘working to tight deadlines’. Respondents in the UK, along with those in France and Netherlands, reported less intensity than the EU average. Of our five EU countries, only Germany and Sweden reported higher levels<sup>11</sup>.

In the case of *continuing vocational training* (CVT), the UK appears at first sight to compare relatively favourably, being one of the few EU countries to achieve the Lisbon 2010 target of 12.5 per of the workforce in adult learning – indeed, its record is only bettered by Sweden and the Netherlands<sup>12</sup>. The more detailed analysis enabled by Eurostat's CVTS paints a less flattering picture, however<sup>13</sup>. Checcaglini and Marion-Vernoux offer an overview of the most recent (2005) data. On the basis of the numbers of firms providing training, employees' rates of access to vocational training and the mean number of hours an employee can expect to spend in training during a given year, they distinguish four groups of countries. The first group, which includes France and Sweden, was the most actively involved. Here around three-quarters of firms declared that they had trained at least one employee that year and almost one French employee out of two spent 28 hours on CVT on average, corresponding to 13 hours per employee. The UK is bracketed in the second group, along with Germany and the Netherlands. Here employees have lower rates of access to CVT courses and the number of hours is less. Thus, in the UK, less than one employee out of three on average benefited in 2005 and the number of hours spent annually undergoing CVT per employee amounted to only about six hours, regardless of the size of firm. Furthermore, employees' rates of access to training courses in the UK had decreased by some 30 per cent since 1999<sup>14</sup>.

As Chapter 2 emphasised, CVT is just the tip of the iceberg so far as the role of the workplace in developing human capital is concerned. Also important is *on-the-job development*. Here, as the discussion in the previous section confirms, UK workplaces would appear to offer less opportunity for learning than those in the other EU countries, the 'lean' and 'traditional' models of work organisation being more prominent.

In the case of *occupational mobility*, the UK is like the other countries in that relatively few women break through the ‘glass ceiling’, the lack of flexibility at senior levels being particularly acute. In the case of managers who are women, the UK was around the

average (i.e. around 31 per cent) in 2003<sup>15</sup>; The UK is around the average for membership of executive bodies, although here the average is much less at around 10 per cent<sup>16</sup>. In the case of representation of women among top levels of civil servants, the UK had one of the lowest proportions (10 per cent) in 2007; it was middling so far as level 2 is concerned at around between 20 and 30 per cent<sup>17</sup>

One feature that is distinctive is the pattern of part-time working in the UK. Along with the Netherlands and Sweden, the UK has one of the highest ratios of part-time to full-time working for women (42.3 per cent in 2007)<sup>18</sup>. The average usual hours worked each week, however, is one of the lowest (19.4 hours)<sup>19</sup>. Part-time workers, it is widely acknowledged, suffer in terms of opportunities for promotion as well as training and development. Arguably, the shorter the hours they work, the greater the problem.

The UK hardly does better on the more general social capital indicators. In the case of divorce, in 2005 (Table A1, Row 6) the number per 1,000 of population was, along with Germany, the highest of the five EU member countries. It had peaked in the 1980s, however, and had been stable or declining ever since<sup>20</sup>. In the case of the prison population (Table 5, Row 7) - a measure of how successful a country is eradicating the underlying causes of crime<sup>21</sup> - the UK had the highest proportion of the five EU countries. Indeed, it was almost twice that in Sweden.

There are, as previously pointed out, considerable difficulties associated with defining and measuring *social capital*. In the light of these, the level of trust in society has widely come to be regarded as a 'very close proxy'<sup>22</sup>. The most commonly quoted indicator comes from the so-called 'World Values Survey, which is regularly conducted in most countries. Basically, it takes the form of the proportion of people who say that they trust 'most people'. Row 8 in Table 5 gives the most recent results for the six countries. It will be seen that the UK ranks fifth, the level of trust being only half that in Sweden and the Netherlands; it is even exceeded by that of the USA. Only France has a lower score.

The ILO's 2004 *economic security index* offers us a final measure of the UK in comparative perspective (Table A1, Row 9). Briefly, this is a composite index which takes into account the seven forms of insecurity listed in Part 1. Sweden enjoyed the highest level of

security. The Netherlands, France and Germany also featured in the top ten. The UK was in 15th place and the US 25th.

In summary, the UK compares relatively unfavourably on many of the social indicators associated with the impact of employment relations. This is particularly true of the indicators of poverty and inequality, occupationally-related health and social capital development. In as much as the levels of *poverty* and *income inequality*, coupled with long working hours, have significant implications for the quality of family life, it seems not unfair to suggest that employment relations goes some way to understanding the problems being experienced in this domain as well. Arguably, too, the exception proves the rule. Occupational safety is an area where the UK compares relatively favourably: it is also the area where the UK has long-standing employee 'voice' and social dialogue institutions.

### **Economic indicators – reaping what is sown**

The focus now shifts onto the main commonly used indicators of macroeconomic performance and competitiveness – it will be recalled that these figured prominently in the two debates involving the connection between employment relations and macro-economic performance discussed in Chapter 2. Tables 7 and 8 replicate the data that Panic has brought together, dividing the recent past into two periods. The first, 1989–98, begins with the collapse of communism, followed by German reunification a year later<sup>23</sup>. The second period, 1999–2004, starts from the inception of European Monetary Union. In both case, the source is the OECD's *Economic Outlook*.

At first sight, the UK's record looks relatively impressive. Rows 1 and 2 in Table A2 suggest that the UK enjoyed above average *growth* in both periods, helping to account for the relatively high levels of GDP reported in Table A1. Row 3 confirms that this was matched by relatively low levels of unemployment<sup>24</sup> – especially in the second period. The growth in consumer prices or inflation (Row 4) was also relatively restrained, again, especially in the second period. The one indicator suggesting that things might not be quite as good as they seem appears in Row 5 and relates to the *balance on trade*. Along with the USA, the UK was the only country in negative territory in both periods.

With the virtue of hindsight, it is clear that the UK's performance,

along with the USA's, flattered to deceive. It was largely based on consumer spending and heavy borrowing, the magnitude of which only became fully clear with the financial and banking crisis.

As Panic persuasively argues, there are two other relevant comments to be made about the data in Table 6. The first relates to France and Germany, whose relatively poor performance commentators regularly attributed to their supposedly excessively regulated labour markets and costly social model. This performance largely reflected the constraints of European monetary policy during the two periods, with Germany having to cope with the added burden of unification. The second, which concerns the performance of Sweden and the Netherlands, reinforces the argument that economic performance and the quality of working life are far from being mutually exclusive. Sweden's performance was similar to the UK's and, if anything, the Netherlands' slightly better; yet both these countries scored very highly on the OECD's employment protection legislation index.

Arguably, the competitiveness indicators in Table A3 give a more realistic picture of the UK's relative position. As Row 1 confirms, in the first period, the UK experienced the biggest rise in *manufacturing unit labour costs* of the six countries. Absolute performance improved in the second period, but relatively was hardly better - Sweden achieved a reduction in unit costs. The changes in *consumer prices* relative to that of the manufacturing sector in other countries shown in Row 2 similarly show a decline in competitiveness: in the other countries there was a reduction or only a slight increase in relative prices, whereas in the UK there was an increase of almost 4 per cent. Rows 3 and 4 show the impact in terms of exports. The UK's rate of *growth of exports of goods and services* (Row 3) fell behind that of the other European countries in the second period. Its *export performance*, which is shown in Row 4, was similarly weak. In the first period, it managed to match Germany's. In the second, however, it dropped not only in absolute but also relative terms, being exceeded by the four other EU countries. Overall, taking into account the various measures, Panic scores the UK lowest of the countries for export performance in both periods.

Just in case there is any doubt, the UK's poor performance cannot be attributed to the incidence of industrial conflict as it was so often in the 1960s and 1970s. As Chapter 7 has shown, strikes in the UK

dropped to an all-time low in recent years, becoming largely a public sector phenomenon. In the words of one recent international comparison talking of the UK, 'Turbulent industrial relations in the 1970s became more 'peaceful' in the 1980s, and in the 1990s conflict levels became as low as in the central European countries, a trend which has continued in the 2000s<sup>25</sup>.

In drawing this section to a close, two points can be made, both of which run contrary to conventional wisdom. The first is that the UK's 'light touch regulation' approach can hardly be said to be associated with superior economic performance. True, UK can boast of higher rates of employment than France and Germany, but the quality of many of these jobs must be in doubt in the light of comparative data on low pay and work organisation. In terms of competitiveness, the UK scores poorly on a number of the key indicators. Arguably, this reflects reliance on the 'lean' and 'traditional' models of work organisation: working longer hours, higher levels of supervision and proportionately more senior managers, it seems, are no substitute for employees working smarter. 'Numerical' flexibility, to put it another way, is no match for 'functional' flexibility. The second is that the experience of countries such as the Netherlands and Sweden suggests that the quality of working life and economic performance are far from being mutually exclusive as they are so often portrayed in the UK. Taking improving working life into account makes it possible for managers to get the motivation, commitment and loyalty that they increasingly need for success. Improved performance makes it possible for managers to bring about a sustained improvement in working lives.

## **Institutional considerations**

### *Employment relations*

In terms of the UK's national employment relations framework, three reasonably well-known features stand out, helping us to understand the impact that employment relations has in the UK. One is *the extent of employment protection legislation* (EPL). Even with the increase in individual employment rights in recent years, the UK is widely recognised to have one of the weakest frameworks of such rights<sup>26</sup>, offering little counterweight to the privileges of shareholders. Indeed,

in the OECD's list of countries by employment protection legislation, the UK is second only to the USA in terms of the weakness of its employment security provisions<sup>27</sup>.

The second distinctive feature is the *limited provision for employee 'voice'*. The statutory right of representation for the purposes of collective bargaining is workplace rather than sector or nationally-based as it is in France, Germany, the Netherlands and Sweden<sup>28</sup>. Effectively, like their counterparts in the USA, trade unions in the UK are faced with a 'catch 22' situation - they have to have members to secure recognition, but they cannot demonstrate the benefits of membership without recognition. There are also no statutory provisions for compulsory works council-type bodies as there are in France, Germany and the Netherlands: the way in which the Labour Government implemented the EU national level information and consultation directive in 2004 effectively enabled employers to avoid setting up collective 'voice' mechanisms, which was the directive's intention.

The UK also stands out on, again along with the USA, on account of its *highly decentralised structure of collective bargaining*<sup>29</sup>. The tentative forms of national level social dialogue that emerged in the 1960s and 1970s were abandoned in the 1980s. The incoming Labour Government of 1997 followed its Conservative predecessors in setting its face against systematic national level social dialogue - 'partnership' has been seen primarily as an organisation-based rather than national level activity<sup>30</sup>. Critically, being rooted in procedural rather than substantive rules, the UK did not develop the detailed sector multi-employer agreements that supplement and extend the legislative framework in most other EU member countries<sup>31</sup>. Save for a few sectors such as engineering construction and printing, multi-employer collective bargaining at sector level has been in decline since the 1960s. The result is that, whereas in 1980 collective bargaining covered some nine out of ten workplaces in the private sector, by 2004 this had dropped to less than two in ten<sup>32</sup>.

The decline of collective bargaining, above all at sector level, means that large sections of the workforce no longer enjoy the benefits of the additional standards that come from collective agreements. Coupled with the absence of any provision for national social dialogue, it also means that the role, status and membership of key intermediary organisations such as trade unions and employers'

organisations have been seriously affected: the UK no longer possesses the networks necessary for co-coordinating continuous improvement in key areas of personnel practice – continuing vocational training is perhaps the most obvious example. Along with limited employment protection, the relative lack of employee 'voice' – at workplace, sector and national level – means that employment is not contributing to social capital development to the same extent as it is in other countries. Arguably, too, there is a greater reluctance to embrace change.

One particular result is that, unlike many EU member countries, the UK has been unable to take advantage of the increasing flexibility built into EU employment directives, reflecting their increasing 'reflexive' and 'procedural' orientation. In the absence of national and sector arrangements for social dialogue, it is effectively restricted to the legislative route in transposing EU initiatives. Standards and entitlements have had to be laid down in law, with mechanisms other than collective bargaining, such as employment tribunals and/or the courts, ensuring compliance and redress. An unfortunate consequence is a growth of legal dependency. The parties to the employment relationship are encouraged to resort to legislation rather than trying to sort things out for themselves – something which, hardly surprisingly, does little to help to promote engagement or trust and therefore social capital development.

The main exception to these generalisations is health and safety. In this area, the UK not only has extensive legislation guaranteeing employee 'voice' at the workplace level, but also long established social dialogue institutions, in the form of the Health and Safety Executive (HSE), dating back to the Robbins report of the early 1970s<sup>33</sup>. This has enabled the HSE to go beyond an enforcement role to be a major influence on the promotion of good practice.

Although they have featured in case studies and general overviews, lack of data has meant that it has rarely been possible to make systematic cross-national comparisons at workplace level. Fortunately, the flow of such data is beginning to improve. Especially valuable are the European Foundation's living and working conditions surveys introduced in Chapter 2. It will be recalled from Lorenz and Valerie's analysis draws on the 2000 survey results to distinguish four main models of work organisation. Especially relevant is the

distinction between the 'learning' and 'lean' models. Both draw on employees' capacity for continuous learning and problem-solving, but the one emphasises worker autonomy, while the other prioritises managerial control and tight quantitative norms to fix the pace of work. It emerges that, even allowing for different degrees to which national producers are positioned on the high-technology or high quality end of product markets, there are significant differences between countries. Table A4, which draws on the 2005 survey results, gives details of the relative incidence of the four models.

Quite clearly, compared to the other four EU countries, it is the 'lean' rather than the 'learning' model that predominates in the UK. Indeed, the proportion of 'learning' workplaces in the UK is even less than the 27-country average, while that for the 'lean' model is higher: the UK's proportion of 'learning' workplaces is less than half that of Sweden, while its figure for 'lean' ones is twice as many. At the other end of the spectrum, the UK also stands out on account of the high proportion of 'traditional' workplaces – almost twice that of Sweden and, again, above the 27-country average<sup>34</sup>.

The same survey also makes it possible to get an impression of the extent of managerial hierarchies in the different countries. Perhaps not surprisingly, this mirrors the dominant model of work organisation. Consistent with the top down control of the 'lean' and 'traditional' models, the UK employs more 'senior managers' proportionately than the other EU countries. Indeed, of the 27 EU member countries only Ireland and Italy reported higher proportions. In the UK, something of the order of 14 per cent to 15 per cent was categorised as 'senior managers' as against an EU average of just under 10 per cent. In the Netherlands and France, the proportion was about the average at around 8 per cent. In Sweden and Germany, only just over four per cent were in the 'senior manager' category<sup>35</sup>.

There is yet a third set of relevant findings from the European Foundation' working conditions survey that bear on work organisation. This involves the relative importance in determining the pace of work of the direct control of a superior as opposed to the demands from other people. Consistent with the other sets of findings, it emerges that, in the UK, the balance is much more in favour of the direct control of a superior than in France, Germany, the Netherlands and Sweden. Indeed, in the words of the survey report, whereas in countries such as Sweden the direct control of a superior is 'almost

negligible' in determining work, in the UK it remains 'important'<sup>36</sup>.

In short, the UK stands out not just on account of its national institutional framework – one that gives little employment protection and scarcely any provision for employee 'voice'. Also distinctive are the institutional arrangements involved in managing the employment relationship at the level of the organisation. Managerial hierarchies, it seems, are more extensive in the UK than in other countries and there is much greater reliance on 'lean' and 'traditional' models of work organisation involving supervision. By contrast, the 'learning model' that encourages employee autonomy and initiative is less in evidence.

### *Corporate governance*

As Chapter 8 pointed out, there are also a number of features of the corporate governance arrangements of the UK's brand of 'shareholder capitalism' that are distinctive and highly relevant to the conduct of employment relations. At the risk of repetition, they are:

- a privileged position for shareholders and an overwhelming emphasis on shareholder value as the key business driver as opposed to the interests of other stakeholders
- a high concentration of institutional share ownership by investment trusts, pension funds and hedge funds, which encourages a focus on short-term profitability as the key index of business performance rather than long-term market share or added value
- relative ease of take-over, which not only reinforces the pressure on short-term profitability to maintain share price, but also encourages expansion by M&A rather than by internal growth, along with the reconfiguring of the corporation through outsourcing, off-shoring and restructuring
- a premium on 'financial engineering' as the core organisational competence, the domination of financial management over other functions and numbers driven as opposed to issue driven planning<sup>37</sup>.

As Chapter 8 emphasised, many of these features came to be exaggerated, following financial deregulation in the 1980s and the accompanying globalisation of capital markets. Apart from the USA, no country has been more affected by 'financialisation' than the UK.

Along with high levels of M&A activity<sup>38</sup> and other kinds of investment/ divestment heavily financed by debt, evidence for this comes in several forms: the rise in the number and financial assets of hedge funds<sup>39</sup>, the financial resources leveraged by private equity companies<sup>40</sup> and the levels of executive pay and stock options<sup>41</sup> that helped to fuel the significant growth in income inequality.

Not only has the 'permanent restructuring' that 'financialisation' encourages made it difficult for operating managers to develop any consistency in approach to employment relations. It has also discouraged the pursuit of business policies that emphasise quality products and services, helping to explain the UK's relatively poor overall competitive position. Encouraged by the weakness of trade unions and an institutional framework favouring 'numerical' rather than 'functional' flexibility, many UK managers have continued to compete on the basis of low-wage and low-skill labour. As well as hardly encouraging employees to go the proverbial extra mile, working harder rather than smarter has the wide ranging implications for the poverty, health, quality of family life and competitiveness discussed in previous sections.

### **Conclusions and implications**

For UK policy makers, this comparison must make grim reading. For two conclusions are pretty inescapable. The first is that many of the objectives they have set themselves – ending child poverty, enhancing the quality of family life, improving health, increasing social mobility and building a knowledge economy<sup>42</sup> – are unlikely to be achieved unless there are substantial changes in the UK's institutional framework of employment relations. Above all, there has to be a shift from the 'traditional' and 'lean' forms of work organisation that are so harmful to people's health and personal development as well as being a drag on business performance. The second is that the 'market' is not going to deliver such a shift, any more than it is a responsible banking system. The same goes for the 'learning organisation' and 'knowledge economy'. The shrinking in the size and influence of the financial sector, along with a reining in of 'financialisation', may lead to a refocusing on product and process as the main forms of competition and, in terms of horizons, greater emphasis on the long as opposed to the short term – all of which will put a premium of better

employment relations. Even so, it will be very difficult for individual companies to shift from ‘traditional’ and ‘lean’ forms of work organisation on their own – policy makers will have to help to bring these changes about, be it in the traditional forms of intervention of legislation and taxation or the ‘softer’ initiatives of the ‘nudge’ approach much favoured by the present Coalition Government<sup>43</sup>.

It is not difficult to come up with suggestions for plugging the UK's institutional ‘gaps’ that go with the grain of existing structures and processes - David Coats and his former colleagues at the Work Foundation have put forward a wide-ranging programme of changes<sup>44</sup>; the author of this text has also made a number of suggestions<sup>45</sup>. The problem is getting policy makers to recognise the critical importance of the workplace in influencing behaviour. Proof of the point lies in the failure to make anything of the opportunities that have been available in recent years – they include the EU Directive providing for national level information and consultation machinery, which would have given employees, through their representatives, an opportunity to make an input to major business decisions, thereby promoting their legitimacy and contributing to engagement; the Company Law Commission’s recommendation that larger companies should produce Operating and Financial Reviews covering policies and practices across a range of social and environmental issues, which would have provided the basis for widespread benchmarking and continuously improving standards; and the ‘Warwick Agreement’ proposal for sector forums, which would have made it possible to develop strategies for productivity, health and safety, pay, skills and pensions’ in low paid industries with large numbers of ‘vulnerable workers’. Each of the opportunities was missed – some for ideological reasons, but mostly because of short-term political considerations, reflecting the contested nature of policy-making in the area. For, in practice, the Labour Governments’ much-vaunted ‘third way’ meant little more than a ‘pendulum approach’: anything resembling a concession to trade unions, such as signing the social chapter or a commitment to introduce statutory trade union recognition, had quickly to be balanced by downplaying its significance and/or limiting its impact.

Arguably, very little is likely to change until there is some joined up policy making in the area. This would mean bringing back a

## EMPLOYMENT RELATIONS MATTERS

Department of Employment as Coates recommends<sup>46</sup> or revamping Acas as an agency reporting through the cabinet office as the present author has suggested<sup>47</sup>. For such developments to happen, however, policymakers have to recognize the key message of this text, namely that employment relations matter.

*Appendix: The UK in comparative perspective*

**Table A1 Social indicators<sup>48</sup>**

	<i>France</i>	<i>Germany</i>	<i>Netherlands</i>	<i>Sweden</i>	<i>UK</i>	<i>USA</i>
GDP per head (PPP, US \$), 2005	30,386	29,461	32,684	32,525	33,238	41,890
Life expectancy at birth, 2005	80.2	79.1	79.2	80.5	79.0	77.9
Probability at birth of dying before 60th birthday (per cent of cohort, 2000-5)	8.9	8.6	8.3	6.7	8.7	11.6
Population below 50% of the median poverty line, 2004-5	7.3	8.4	7.3	6.5	12.5	17.0
Gini index of income inequality various dates	32.7	28.3	30.9	25.0	36.0	40.8
Social trust (per cent of those who trust 'most people')	23	36	69	76	30	36
ILO Economic Security Index, 2004	0.83	0.79	0.86	0.98	0.74	0.61

EMPLOYMENT RELATIONS MATTERS

**Table A2 Macroeconomic indicators** (annual averages, per cent: A=1989–98; B=1999–2004)<sup>49</sup>

	<i>France</i>		<i>Germany</i>		<i>Netherlands</i>		<i>Sweden</i>		<i>UK</i>		<i>USA</i>	
	A	B	A	B	A	B	A	B	A	B	A	B
Growth of real aggregate demand	2.4	1.9	0.7	1.3	1.4	2.0	1.9	3.6	3.1	3.0	3.4	0.6
Growth of GDP (at constant prices)	2.2	2.1	1.2	1.8	1.7	2.4	2.8	3.8	2.7	3.0	3.0	1.6
Unemployment (standardised)	10.6	9.4	7.2	8.5	5.8	3.3	6.7	5.6	8.1	5.2	5.9	5.2
Consumer prices	2.2	1.8	2.7	1.3	2.1	2.8	4.0	1.4	4.0	1.2	3.3	2.5
Balance on trade in goods and services as per cent of GDP	0.7	1.1	0.0	0.9	4.2	3.1	0.7	5.4	-1.9	-2.1	-1.4	-4.4

**Table A3 Changes in international competitiveness** (annual averages, per cent): A =1989–98; B=1999–2004<sup>50</sup>

	<i>France</i>		<i>Germany</i>		<i>Netherlands</i>		<i>Sweden</i>		<i>UK</i>		<i>USA</i>	
	A	B	A	B	A	B	A	B	A	B	A	B
Relative unit labour costs in manufacturing (a)	-1.4	1.1	1.4	0.0	0.5	1.2	-2.4	-2.3	4.4	1.2	-0.4	-1.2
Relative consumer prices (a)	-0.2	-0.3	0.2	-0.8	-0.5	1.3	-1.0	-1.0	1.2	3.9	•	0.4
Growth of exports of goods and services	6.5	3.6	5.7	5.6	4.5	5.7	6.5	4.5	5.7	3.4	7.9	2.6
Export performance (b)	0.6	-1.8	-1.1	0.4	0.9	-0.7	0.6	0.4	-0.4	-2.2	0.6	-2.8

a In dollar terms, relative to that of the manufacturing sector in 42 countries. Minus indicates improvements in competitiveness.

b Change in each country's volume of exports of all goods and services relative to that of the volume of total imports of goods and services into its export markets. Minus indicates that the performance is deteriorating.

## EMPLOYMENT RELATIONS MATTERS

**Table A4 National differences in work organisation models** (% of employees)<sup>51</sup>

	'Discretionary Learning'	'Lean '	'Taylorist'	'Traditional'
France	47.7	23.8	17.5	11.0
Germany	44.3	19.9	18.4	17.4
Netherlands	51.6	24.3	11.4	12.7
Sweden	67.5	16.0	6.9	9.6
United Kingdom	31.7	32.4	17.7	18.2
EU-27	38.4	25.7	19.3	16.4

## References and notes

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- <sup>1</sup> European Commission. 2009. *Industrial Relations in Europe in 2008*. DG Employment and Social Affairs, Brussels. p.70.
- <sup>2</sup> European Commission. 2009. *Industrial Relations in Europe in 2008*. DG Employment and Social Affairs, Brussels. p.70.
- <sup>3</sup> For further details, see Marginson, P. and Sisson, K. 2004. *European integration and industrial relations. Multi-level governance in the making*. Basingstoke: Palgrave. Chapter 2.
- <sup>4</sup> For further details, see [www.hse.gov.uk/statistics/european/index.htm](http://www.hse.gov.uk/statistics/european/index.htm).
- <sup>5</sup> European Foundation for the Improvement of Living and Working Conditions. 2007. *Fourth Working Condition Survey*. Dublin: European Foundation for the Improvement of Living and Working Conditions. p.61, Figure 7.1. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).
- <sup>6</sup> European Foundation for the Improvement of Living and Working Conditions. 2007. *Fourth Working Condition Survey*. Dublin: European Foundation for the Improvement of Living and Working Conditions. p.64, Figure 7.7. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).
- <sup>7</sup> Wilkinson, R. and Pickett, K. 2009. *The spirit level: why more equal societies almost always do better*. London: Allen Lane. pp. 66-8.
- <sup>8</sup> Black, C. 2008. *Working for a healthier tomorrow. Review of the health of Britain's working age population*. Presented to the Secretary of state for Health and the Secretary of State for Work and Pensions 17th March. London: TSO. p.29.
- <sup>9</sup> TUC. 2008. *Hard work, hidden lives. The full report of the Commission on Vulnerable Employment*. London: TUC. The TUC reminds us that the European Commission presents the gender pay gap in 'unadjusted form' – the difference between men's and women's average gross hourly earnings as a percentage of men's average gross hourly earnings. The gender pay gap is based on several data sources, including the European Community Household Panel (ECHP), the EU Survey on Income and Living Conditions (EU-SILC) and national sources. The target population consists of all paid employees aged 16-64 that are 'at work 15+ hours per week'.

<sup>10</sup> European Commission. 2009 *Industrial Relations in Europe in 2008*. DG Employment and Social Affairs, Brussels. p.64: Chart 2.4. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).

<sup>11</sup> European Foundation for the Improvement of Living and Working Conditions. 2007. *Fourth Working Condition Survey*. Dublin: European Foundation for the Improvement of Living and Working Conditions.p.58, Figure 6.9. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).

<sup>12</sup> European Commission. 2009 *Industrial Relations in Europe in 2008*. DG Employment and Social Affairs, Brussels. p.60: Chart 2.2). Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).

In the UK, achieving the Lisbon target is highly correlated with the recognition of trade unions: respondents in workplaces where trade unions were recognised were more likely to have members of the workforce in workplace training than those that did not.

<sup>13</sup> Eurostat (Nestler, K. and Kailis, E.) 2003. ‘Continuing vocational training in enterprises in the European Union (CVT2)’. *Statistics in focus*. Population and Social Conditions, Theme 3. Luxembourg: Office for Official Publications of the European Communities. Available at: [www.eurostat.ec.europa.eu](http://www.eurostat.ec.europa.eu); Eurostat (Nestler, K. and Kailis, E.) 2003. ‘Working time spent on continuing vocational training in enterprises in Europe’. *Statistics in focus*. Population and Social Conditions, Theme 3. Luxembourg: Office for Official Publications of the European Communities. Available at [www.eurostat.ec.europa.eu](http://www.eurostat.ec.europa.eu).

<sup>14</sup> Checcaglini, A. and Marion-Vernoux, I. 2008 ‘Trends in European companies’ vocational training practices’. *Céreq*, No 80 May-June.

<sup>15</sup> European Commission. 2005. ‘Communication from the Commission to the Council, the European Parliament, the European Economic and social committee and the Committee of the Regions. Report on equality between men and women’. p.16.

<sup>16</sup> European Commission. 2005. ‘Communication from the Commission to the Council, the European Parliament, the European Economic and social committee and the Committee of the Regions. Report on equality between men and women’. p.16.

<sup>17</sup> European Commission. 2008. *Women and men in decision making. Analysis of the situation and trends.* p.46. Available at: [http://ec.europa.eu/employment\\_social/publications/2008/ke8108186\\_en.pdf](http://ec.europa.eu/employment_social/publications/2008/ke8108186_en.pdf)

<sup>18</sup> There is another interesting contrast between the UK and Sweden. Both countries have roughly the same employment rate for women. In Sweden, the maternal employment rate (i.e. the number of women with children in employment) is only slightly lower than the overall rate, whereas it falls to two-thirds in UK. Also a much higher proportion of maternal rate is part-time in UK. Public spending on childcare in Sweden is around five times that of UK. In the UK, two thirds of women without children have full time jobs, whereas less than a third of mothers are in full time employment.

<sup>19</sup> Eurostat (Romans, F. and Preclin, V.) 2008. European Union Labour Force Survey-Annual results 2007. *Population and social conditions in focus.* Tables 1 and 4. Luxembourg: Office for Official Publications of the European Communities. Available [www.eurostat.ec.europa.eu](http://www.eurostat.ec.europa.eu).

<sup>20</sup> Eurostat figures quoted in Cabinet Office - the Strategy Unit. 2008. *Families in Britain. An evidence paper.* p.25. Available at [www.cabinetoffice.gov.uk/strategy..](http://www.cabinetoffice.gov.uk/strategy..)

<sup>21</sup> Panic, M. 2005. 'Reconstruction, development and sustainable peace: a unified programme for post-conflict countries, in UN Department for Economic and Social Affairs, Development Challenges in Sub-Saharan Africa and Post-Conflict Countries, Report of the Committee for Development Policy'. New York: United Nations.

<sup>22</sup> Organisation for Economic Cooperation and Development (Cote, S and Healey, T.). 2001. *The Well Being of Nations. The Role of Human and Social Capital.* Paris: OECD. p.42.

<sup>23</sup> Panic, M. 2007. 'Does Europe need neo-liberal reforms?' *Cambridge Journal of Economics*, No 31, 145–169.

<sup>24</sup> Cabinet Office - the Strategy Unit. 2008. *Getting on, getting ahead. A discussion paper: analysing the trends and drivers of social mobility.* Available at [www.cabinetoffice.gov.uk/strategy](http://www.cabinetoffice.gov.uk/strategy).

According to the Cabinet Office's Strategy Unit report quoting a European Foundation's 2008 European restructuring monitor study, job quality has

been improving in UK on the basis of the increase in the proportion of higher paying jobs. This is true, but the study goes on to say that this movement was not as strong as in other countries. The UK, along with Germany, was classed as a hybrid case of 'polarisation' and 'upgrading'. For further details, see European Foundation for the Improvement of Living and Working Conditions. 2008. *More and better jobs: Patterns of employment expansion in Europe*. Dublin: European Foundation for the Improvement of Living and Working Conditions. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).

<sup>25</sup> Scheuer, S. 2006. 'A Novel Calculus? Institutional Change, Globalisation and Industrial Conflict in Europe'. *European Journal of Industrial Relations*, Vol.12; No.2, 143-164.

<sup>26</sup> As the then Prime Minister boasted in the foreword to the proposed programme of legislation outlined in *Fairness at work* (1998), the UK would remain 'the most lightly regulated labour market of any leading economy in the world' (House of Parliament, 1998: *Fairness at Work*. London: The Stationary Office).

Ironically, the financial and economic crisis led employers' representatives to complain about the relative lack of employment security in the UK. In the light of a 75 per cent reduction in orders, Matthew Taylor, chief executive of JCB, is quoted as saying: 'We are making some very good employees redundant and that hurts'. He went on to contrast the position in the UK with that in Germany, where it was possible to put JCB's employees on a two-day week, with the Government making up some of the wages to avoid lay-offs *The Sentinel*. 2009. 'Fears for bleak future as more job cuts loom'. Tuesday, 13 January. Available at [www.thisisstaffordshire.co.uk/panels/Fears-bleak-future-job-cuts-loom/article-608714-detail/article.html](http://www.thisisstaffordshire.co.uk/panels/Fears-bleak-future-job-cuts-loom/article-608714-detail/article.html)

<sup>27</sup> Organisation for Economic Cooperation and Development. 2004. 'Employment protection and labour market performance'. Chapter 2. *OECD Employment Outlook*. Paris: OECD. p.72, Chart 2.1.

<sup>28</sup> Marginson, P. and Sisson, K. 2004. *European integration and industrial relations. Multi-level governance in the making*. Basingstoke: Palgrave.

<sup>29</sup> Traxler, F., Blaschke, S. and Kittel, B. 2001. *National Labour Relations in Internationalised Markets*. Oxford: OUP; European Commission. 2009 *Industrial Relations in Europe in 2008*. DG Employment and Social Affairs, Brussels. p.70. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).

- <sup>30</sup> Taylor, R. 1999: Blair 'rejects' partnership with unions and employers. *Financial Times* 7 July.
- <sup>31</sup> Sisson, K. 1987. *The Management of Collective Bargaining: an International Comparison* Oxford: Blackwell.
- <sup>32</sup> Kersely, B., Alpin, C., Forth, J., Bryson, A., Bewley, H., Dix, G. and Oxenbridge, S. 2006. *Inside the Workplace: Findings from the 2004 Workplace Employment Relations Survey* London: Routledge. pp.179-84.
- <sup>33</sup> Bach, S. 1994. 'The working environment', in Sisson, K. (ed). *Personnel Management: a comprehensive guide to theory and practice in Britain*. Oxford: Blackwell.
- <sup>34</sup> The fourth *European Working Conditions Survey* includes several indicators of autonomy at work: three of these have to do with the worker's freedom to exercise control over the work process (the ability to choose or change the order of tasks, the methods of work and the speed or rate of work); the fourth refers to the influence the worker has over the choice of working partners, and the fifth concerns the ability of the worker to interrupt their work in order to take a short break, when they wish. On the basis of a composite indicator drawn based on the five indicators, of the five European countries, Sweden and the Netherlands displayed the highest levels of autonomy, followed by France. The UK was in fourth place, at around the EU average, with Germany bringing up the rear. For further details, see European Foundation for the Improvement of Living and Working Conditions. 2007. *Fourth Working Condition Survey*. Dublin: European Foundation for the Improvement of Living and Working Conditions. p.51, Table 6.1. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).
- <sup>35</sup> European Foundation for the Improvement of Living and Working Conditions. 2007. *Fourth Working Condition Survey*. Dublin: European Foundation for the Improvement of Living and Working Conditions. p.6, Figure 1.3. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).
- <sup>36</sup> European Foundation for the Improvement of Living and Working Conditions. 2007. *Fourth Working Condition Survey*. Dublin: European Foundation for the Improvement of Living and Working Conditions. p.57, Figure 6.7. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).

<sup>37</sup> Sisson, K. and P. Marginson. 1995. 'Management: Systems, Structures and Strategy', in P.K. Edwards (ed) *Industrial Relations: A Comprehensive Guide to Theory and Practice in Britain*. Oxford: Blackwell. pp.89-122; Sisson, K. and P. Marginson. 2003. 'Management: Systems, Structures and Strategy', in P.K. Edwards (ed.) *Industrial Relations: Theory and Practice (second edition)*. Oxford: Blackwell. pp.157-88.

<sup>38</sup> Office for National Statistics. 2007. *Mergers and Acquisitions involving UK Companies: 4th Quarter 2006*. First Release. London, ONS.

<sup>39</sup> According to IFSL Research, in 2007 London was the second largest global hedge fund centre after New York, being home to two-thirds of the 1,500 European-based funds. Its share of global hedge fund assets more than doubled between 2002 and 2007 to 20 per cent with the result that, at the end of 2007, four-fifths of the stock of European hedge fund assets totaling around \$500bn were managed out of the UK, the vast majority from London.

IFSL Research goes on to explain that London's strong position is due to many factors including its local expertise, the proximity of clients and markets, a strong asset management industry and a favourable regulatory environment. London is also a leading centre for hedge fund services such as administration, prime brokerage, custody and auditing. The financial barriers to entry into prime brokerage are high and business is principally conducted by large investment banks. With around a half of European investment banking activity conducted through London, it is a natural location for prime brokerage services (for further details go to *IFSL Research Hedge Funds 2008* at [www.ifsl.org.uk](http://www.ifsl.org.uk)).

<sup>40</sup> One review (Private Equity International) suggests that London was also second only to New York in terms of the location of the number of major private equity companies. Eleven of the top 50 by funds raised since 2002 were located in London – other European capitals could only muster four between them (Amsterdam, Paris and Stockholm (2)).

<sup>41</sup> See, for example, Towers Perrin 'World Total Remuneration' reports. In his RSA/Sky Sustainable Business Lecture quoted in Chapter 8, the Director General of the CBI draws attention to what he describes as 'another big change in corporate culture, at least for the biggest companies. According to Income Data Services, the chief executives of the UK's 100 largest companies will have earned 81 times the average pay of all full-time workers in 2009, up from 47 times the average wage back in the year 2000'.

For further details, see Lambert, R. 2010. RSA/Sky Sustainable Business Lecture Series – 30 March. ‘Does business have a role as a ‘force for good’ in creating a more sustainable economic, social and environmental future?’

<sup>42</sup> Cabinet Office - the Strategy Unit. 2008. *Families in Britain. An evidence paper*. Available at [www.cabinetoffice.gov.uk/strategy](http://www.cabinetoffice.gov.uk/strategy).

<sup>43</sup> Thaler, R.H. and Sunstein, C.R. 2008, *Nudge: Improving Decisions About Health, Wealth and Happiness*. New Haven and London: Yale University Press.

<sup>44</sup> Coats, D. 2010. *Time to cut the Gordian Knot – the case for consensus and reform of the UK’s employment relations system*. London: The Smith Institute.

<sup>45</sup> Sisson, K. 2006. *Responding to Mike Emmott: What “industrial relations” suggests should be at the heart of “employee relations”*. Available at [www2.warwick.ac.uk/fac/soc/wbs/research/irru](http://www2.warwick.ac.uk/fac/soc/wbs/research/irru); Sisson, K. 2009. ‘Why employment relations matter’. *Warwick Papers in Industrial Relations* No 92. Coventry: Industrial Relations Research Unit.

<sup>46</sup> Coats, D. 2010. *Time to cut the Gordian Knot – the case for consensus and reform of the UK’s employment relations system*. London: The Smith Institute.

<sup>47</sup> Sisson, K. 2009. ‘Why employment relations matter’. *Warwick Papers in Industrial Relations* No 92. Coventry: Industrial Relations Research Unit. Available at [www2.warwick.ac.uk/fac/soc/wbs/research/irru/wpir/](http://www2.warwick.ac.uk/fac/soc/wbs/research/irru/wpir/)

<sup>48</sup> Source is Panic based on Eurostat, ILO and UNHRD data. For further see Panic, M. 2007. ‘Does Europe need neo-liberal reforms?’ *Cambridge Journal of Economics*, No 31, 145–169.

<sup>49</sup> Source is Panic based on OECD, *Economic Outlook 2005*. For further details, see Panic, M. 2007. ‘Does Europe need neo-liberal reforms?’ *Cambridge Journal of Economics*, No 31, 145–169.

<sup>50</sup> Source is Panic based on OECD, *Economic Outlook 2005*. For further details, see Panic, M. 2007. ‘Does Europe need neo-liberal reforms?’ *Cambridge Journal of Economics*, No 31, 145–169.

<sup>51</sup> European Foundation for the Improvement of Living and Working Conditions (Valeyre, A., Lorenz, E., Csizmadia, P., Gollac, M. Illéssy, M. and Makó, C.) 2009. *Working conditions in the European Union: Work organisation*. Dublin: European Foundation for the Improvement of Living and Working Conditions. Available at [www.eurofound.europa.eu](http://www.eurofound.europa.eu).