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## Putting the record straight: industrial relations and the employment relationship

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**Putting the record straight:  
Industrial relations and the employment relationship**

**Keith Sisson**

**WARWICK PAPERS IN INDUSTRIAL RELATIONS**

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## **Editors Foreword**

The Warwick Papers in Industrial Relations series publishes the work of members of the Industrial Relations Research Unit (IRRU) and people associated with it. Papers may be of topical interest or require presentation outside of the normal conventions of a journal article. A formal editorial process ensures that standards of quality and objectivity are maintained.

Keith Sisson is Emeritus Professor of Industrial Relations at the University of Warwick and was formerly Director of the Industrial Relations Research Unit. He has written and published widely on the role of management in industrial relations and on the development of employment regulation in Europe.

This is the second of a series of substantial contributions to the Warwick Papers and builds from the themes presented in *Revitalising industrial relations: making the most of the “institutional turn”*, published in July 2007. The purpose once again is to reflect on the current theory and practice of industrial relations but here he engages specifically with the concept of the ‘psychological contract’. For many contemporary observers of the employment relationship, the idea of reciprocal, often implicit and informal ties between employers and workers comprises a radically new conception of what happens in the workplace and one derived from beyond the confines of *industrial relations*. Sisson provides a critique of the concept and sets out a multi-faceted approach to the employment relationship exploring issues of co-operation and conflict. Arguably, such an exercise is critical in a context in which organisations, and the conventional understandings that have bound them, are subject to often quite radical fragmentation, with particular consequences for the employment relationship.

Trevor Colling

## Preface

The study of industrial relations in the UK has been going through a period of considerable reflection and introspection from which there appears to be emerging something of a consensus about the essentials for further development. Crucially, in terms of subject matter, there is agreement that what distinguishes the subject of industrial relations is the employment relationship, the institutions or rules involved in its governance and their significance for a wide range of economic, political and social outcomes.

Unfortunately the message does not appear to be getting through. The industrial relations perspective on the employment relationship continues to be misunderstood and its significance ignored, which means that any impact that it might have on practice and policy is being diluted. Arguably, too, this could not be happening at a worse time. Not only is this perspective relevant to a number of specific debates such as those surrounding the promotion of the 'psychological contract' and the 'fragmentation' of employment arising from the subcontracting of activities previously undertaken in-house. Even more fundamentally, it also bears on thinking about the very nature of the work organisation. For here there is what can only be described as a battle of ideas taking place between, on the one hand, the 'resource-based view' and, on the other, the 'nexus of contracts doctrine', with profound implications for society as a whole.

The present paper offers a statement of the industrial relations position on the employment relationship. It has two main aims. The first is to deal with the misconceptions and misunderstandings that appear to exist about this position. The second is to demonstrate that, far from being the stereotype with which it is associated, industrial relations is well on course to developing a multi-disciplinary and multi-level synthesis that is highly relevant to issues of practice and policy.

The paper, which is intended to be accessible and relevant to members of the policy community as well as colleagues who teach and research in the area, has its origins in an on-going project that I've labelled *Employment relations matters*. The title captures the double intention: to demonstrate the ways in which employment relations *matters* and to bring people up to date with *the matters* that the subject deals with.

The paper is the second of three dealing with the project's key themes that I'm hoping to publish in the IRRU series. The first, which was appeared in July 2007, deals with the institutional 'turn' in economics, politics, psychology and sociology and the potential benefits for the study of industrial relations. The third, which I hope will be available in later in the year, will be concerned with why employment relations is important, focusing not just on business performance, but also individual well-being, human and social capital development, and macroeconomic considerations such as the trade off between wages and employment and the links between inequality and productivity.

I'm especially grateful to the editor and colleagues who refereed and commented on an earlier version of the paper. Thanks to them, the final version is considerably more focused than it would have been.

# Putting the record straight: Industrial relations and the employment relationship

## Introduction

The study of industrial relations in the UK has been going through a period of 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 feminization of the workforce and the decline of trade union membership and coverage of collective bargaining. From this there appears to be emerging something of a consensus about the essentials for further development. In terms of subject matter, there is agreement that what distinguishes the subject is the employment relationship, the institutions or rules involved in its governance and their significance for a wide range of economic political and social outcomes (Ackers and Wilkinson, 2003: 30; Edwards, 2003; Blyton and Turnbull, 2004). The *employment relationship* has always been there or thereabouts in British industrial relations, but during the so-called ‘golden ages’ (Winchester, 1991) was more or less taken for granted, the main emphasis being on the role of trade unions and collective bargaining in its regulation<sup>1</sup>. In terms of approach, there is agreement that industrial relations is an area of study rather than discipline whose aim, in Hyman's (2004) words, is to develop theory “in” rather than theory “of”. There is also recognition that there are considerable opportunities to develop industrial relations' tradition of tacit theorizing by strengthening links with institutional analysis and explicitly adopting the philosophy of science approach known as ‘critical realism’ (Edwards, 2006). In terms of methodology, there seems to be strong support for a multi-level and multi-disciplinary

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<sup>1</sup> In the case of the USA, Kaufman (2007) argues that ‘The modern field of industrial relations is in trouble, partly because it has become too narrowly defined around the study and promotion of trade unions and collective bargaining. A rejuvenated industrial relations needs to return to the broader subject domain that characterized it in earlier decades: the study of the employment relationship. This does not mean rejecting trade unions; it does mean framing the field more broadly so it covers all the major actors and institutions in the employment relationship ...’

approach with an emphasis on theoretically informed empirically enquiry involving induction as well as deduction and qualitative as well as quantitative methods (see, for example, Heery, 2005).

On the ground, the shift is reflected in a broadening of the issues with which British industrial relations is concerning itself. As **recent** special issues of the *British Journal of Industrial Relations* confirm, this is not just a matter of expansion into HRM. Topics will be found there as varied as the 'political economy of immigration', 'new actors in industrial relations', the 'embedded corporation', the 'quality of working life', 'new modes of regulation', 'politics and industrial relations', 'corporate governance' and 'union decline and prospects for renewal'.

An important development is that the employment relationship and institutions involved in its governance are not just being studied for their own sake, which is a criticism that has been made in the past (see, for example, Turner, 1968). Rather it is because they are the 'rules of the game' linking practice and performance. In other words, the generic features of the employment relationship do not exist in a vacuum. They find expression in institutions reflecting the interplay between internal performance issues and external market, technological and political developments (Grimshaw and Rubery, 1998; 2003). The employment relationship is something that the great majority of us are involved in for much of our lives. Its conduct can be shown to have consequences for a wide range of economic, political and social issues embracing not just business performance (Ashton and Sung, 2002), but also health, personal development opportunities, the family and the development of social capital (Coats, 2004) and significant macroeconomic considerations such as the trade off between wages and employment and the links between inequality and productivity (OECD, 2006).

Yet, however self-satisfied the industrial relations community may feel, its position on the employment relationship continues to be misunderstood and its significance ignored. Coyle-Shapiro

and her colleagues' *The employment relationship: examining psychological and contextual perspectives* is a recent case in point. Rather than being multi-disciplinary with the employment relationship as its central focus, industrial relations is seen as only one of a number of perspectives along with social exchange, justice, legal theory and economics (Coyle-Shapiro et al., 2005: 120-1). Not only that. The perspective associated with industrial relations is an extremely narrow one that, arguably, does not do justice to its commissioned chapter on industrial relations (Kelly, 2005), let alone the fruits of the reflection and introspection touched on earlier. 'The focus of an IR approach is on the relationship between the employer and employees, as a collective, and how to regulate the relationship in view of the conflicts that exist'. If anything, their comparison and contrast of the different perspectives on a number of dimensions (see Table 1) suggests that the industrial relations position is even narrower.

	<i>Social exchange</i>	<i>Justice (moral principles model)</i>	<i>Industrial relations</i>	<i>Legal (relational contracting)</i>
<i>Nature of the exchange</i>	Mutually beneficial	Exploitative	Exploitative	Mutually beneficial
<i>Level of analysis</i>	Primary emphasis on individual level within peer group context	Individual within organizational context	Group level (employee collective)	Individual within organization
<i>Basis of the exchange</i>	Tangible and intangible (approval, support)	Tangible and intangible (morally acceptable treatment)	Primary focus on tangibles (wages and working conditions)	Tangible and intangible (recognition, praise)
<i>Regulation of the exchange/ implications for maintaining the relationship</i>	Self-imposed regulation through trust	Societal moral norms of conduct	Collective bargaining	Acting in good faith
<i>Process of exchange</i>	Norm of reciprocity	Reciprocation based on fairness	Conflicts of interest and power - negative and balanced reciprocity	Sharing of benefits and burdens (norm of reciprocity)
<i>Aims of the exchange</i>	Development of an enduring relationship based on trust	Morally acceptable employer behaviour and satisfactory employee performance	Productive efficiency and distributive justice	Mutually satisfying and rewarding relationships
<i>Contextual influences on the exchange</i>	Peer groups	Broader social context through importation of prevailing norms of conduct	IR institutions (e.g. Collective bargaining arrangements)	Influence of culture and external regulations on obligations

Source: Coyle-Shapiro (2005: 125)

Such misunderstanding is not important in itself. It is not unique, however, as I've suggested elsewhere (Sisson, 2006). Arguably, too, it could not be happening at a worse time. The understanding of the employment relationship that the industrial relations perspective brings is central to a number of major debates and issues. One involves the psychological contract. With the decline in collective bargaining and growing attention on relations between the organisation and individual employees, this is being promoted as an appropriate framework for understanding developments in the employment relationship. In the words of the Chartered Institute of Personnel Development (CIPD, 2006), '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'. Complicating matters, however, is that there is a difference of approach which, as the paper argues later, has significant ethical implications. In the older tradition, which is mostly followed in the UK, the psychological contract is seen as 'the perceptions of the two parties, employee and employer, of what their mutual obligations are towards each other' (CIPD, 2006; see also Herriot and Pemberton, 1997; Guest and Conway, 2002). The dominant view, however, especially in the USA, has come to follow Rousseau (1995) in treating the psychological contract as in 'essence a belief held by employees ... because logically organisations do not have beliefs'.

An even more fundamental issue is the 'fragmentation' of employment (Marchington et al., 2005). Most immediately, it arises from the subcontracting of many activities previously performed in-house and takes the form of the controversy over the extension to agency and temporary workers of the individual employment rights enjoyed by permanent employees – at the time of writing, the UK Government is reported as proposing the setting up a special commission to resolve issues raised by a

proposed EU Directive on the matter. Subcontracting is only one form of externalisation, however. UK organisations, it is argued, are being subjected to a process of 'permanent restructuring' (Froud et al., 2000a and b). In part, this 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. In part, it 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). The result is that the employer's traditional functions and responsibilities are often being split between a number of entities: for example, the employer who pays is not necessarily the one who coordinates<sup>2</sup>.

Arguably, too, a fundamental conflict of views is re-emerging about the nature of the work organisation, in which perspectives on the employment relationship are central. On the one hand is the doctrine of the firm as a 'nexus of contracts'. This doctrine, which is being used to legitimize many of the developments described above, has been described as the 'dominant legal and economic perspective' in the UK and the USA (Parkinson, 2003: 485). Largely developed as the result of economists grappling with the need to accommodate the organisation into neo-classical thinking, it starts from

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<sup>2</sup> 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 (Freedland, 2003; 2006; Deakin, 2007). As they recognise, however, English employment law is, for the time being at least, strongly committed to a bilateral contractual way of conceiving of the employment relationship, along with the binary divide between contracts of employment and contracts for services.

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' (Parkinson, 2003: 485). 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. In the words of Alchian and Demsetz (1972: 778), 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' (Khurana, 2007: 364). The approach, suggests 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 (see, for example, Brittan, 2003; Owen, 2003).

On the other hand is the resource-based view that informs the thinking behind HRM, the 'learning/knowledge organisation' and 'high performance working'. 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’ (Morgan, 2005: 5). The focus is on how the organisation, ‘an authoritatively structured set of relationships’, creates ‘distinctive capabilities through establishing routines that co-ordinate complementary activities and skills for particular strategic purposes’ (Morgan, 2005: 1).

In these circumstances, the paper that follows has two main aims. The first is to deal with the many misconceptions and misunderstandings that appear to exist about this position. The second is to demonstrate that, far from being the stereotype with which it is associated, industrial relations is developing a multi-disciplinary and multi-level perspective on the employment relationship that is highly relevant to issues of practice and policy. To these ends, the paper follows the same framework that Coyle-Shapiro and her colleagues use to compare the different perspectives (see column 1 of Table 1).

## **The industrial relations perspective: more than a matter of trade unions and collective bargaining**

### **The starting point**

Employment is a particular form of ‘work that is performed under contractual arrangements and that involves material rewards’ (Kelloway et al., 2004: 109).

Traditionally, a distinction has been made between labour service contracts and

employment contracts. In one case, organisations hire workers on service contracts to undertake a 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 as 'employees' on fixed or open-ended employment contracts to undertake a range of tasks largely at the discretion of their agents, i.e. managers<sup>3</sup>. It is with this type of employment relationship that industrial relations is concerned, i.e. 'economic activity in which an employee works under the authority of an employer and receives a wage in return for his or her labour' (Edwards, 2003: 2).

### *Market and managerial relationship*

For industrial relations the employment relationship is not just a market relationship as it is in nexus of contracts thinking. The feature that distinguishes the employment relationship from the labour services agreement is that it is both a market *and* a managerial relationship (Flanders, 1974; Edwards, 2003). As in the case of the labour services agreement, the employee's contribution has a 'price', which embraces the cost of wages, holidays, sick pay, pensions (which can be viewed as a form of deferred income) and other fringe benefits. Whereas the labour services agreement spells out

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<sup>3</sup> A measure of the significance of the employment relationship is that, in the second half of 2007, according to the Office for National Statistics (2008), just over 29 million or something approaching six out of ten of the population above the age of 16 were regarded as being in 'employment' in the UK. Of these, just over 25 million people or 86 per cent were classified as 'employees' and nearly 3.9 million as 'self employed'. The great majority of 'employees' were on permanent contracts, with 1.4 million or 5.7 per cent on temporary fixed term contracts. Overall, just over a quarter of employees were part-time.

As these statistics confirm, what might be described as the 'dependent' employment relationship is by far and away the dominant form. 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 as opposed to services.

It is difficult to be precise about the size of the workforce involved in multi-lateral arrangements. The Business Services Association, which represents companies providing outsourced services, estimates it employs 700,000 workers. The general processes of restructuring referred to in the text are likely to have affected many more.

the work that is to be done in return, however, the employment relationship is relatively silent. This is because, in entering into an employment relationship, the employer does not acquire a specific or quantifiable amount of labour – 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. Going with the employment relationship, therefore, is a managerial hierarchy to ensure that employees do what the employer wants. It is this managerial hierarchy that determines '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' (Edwards, 2003: 8).

To express the contrast another way, the governance arrangements of the two types of relationship are fundamentally different. 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 enforce the agreement, subject only to the constraints imposed by the law or collective agreements or societal norms.

### *Indeterminate*

It follows that the employment relationship is, by definition, 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' (2007: 11 10) words,

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. For employees, as Simon's (1951) famously observed many years ago, it is the equivalent of signing the proverbial '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. As Brown and Walsh, 1994: 440) suggest, : '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'.

### *Continuous*

The employment relationship is also *continuous* or *open-ended* – it is not a one-off exchange as in the case of the labour services agreement. 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. 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'.

### **Nature of the exchange**

#### *Exploitative*

*Exploitative* is indeed one of the adjectives that industrial relations uses to describe the nature of the employment relationship, as Coyle-Shapiro and her colleagues suggest (see Table 1). It is used in both derogatory and literal senses. In the derogatory sense, it is a value judgement about the conduct of the employment relationship in a specific instance. 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, reflecting the unequal power relationship discussed later.

#### *Contradictory*

This leads industrial relations to stress another key feature of the employment relationship – its *contradictory* nature. To begin with employees, 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 them in an act of submission or subordination, regardless of any job satisfaction or

material rewards<sup>4</sup>. Yet, unlike other resources, 'human resources' are embodied in people - employees cannot 'commodify' themselves in the way that the basis of the exchange implies. Also impossible to ignore is that, in democratic societies, the contrast between their organisational and civil lives for many employees 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.

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 far from being a straightforward matter. In Edwards' (2003: 16) words, 'managements have to pursue the objectives of control and releasing creativity ... [and] the problem is that these involve very different and conflicting strategies'. Very tight monitoring is not only costly, but also can reduce the prospects 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.

The context can also make a fundamental difference. Illustrative here are the high performance work systems that policy makers say they are so keen to promote. Despite a wide body of evidence suggesting that they are more effective and efficient than traditional forms of work organisation, their take-up remains surprisingly low. A major problem, as a range of authors have argued (see, for example, Sisson and Marginson, 2003; Godard, 2004), is that, as well as considerable investment in

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<sup>4</sup> In the words of one of the standard employment law texts (Collins, 2003: 13), 'Employment law has evolved to cope with this unique combination of four features that represent the hallmark of a standard contract of employment: submission, opportunism, subordination, and the pressing encroachment of working time on life itself'.

training and action across a range of policies and practices, such systems also require some stability to become embedded. Yet 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.

### *Co-operative and antagonistic*

It is in the light of these features that industrial relations sees employers and employees locked into a relationship that is at one and the same time both *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' (1986) words, there is an in-built structural antagonism. Importantly, this does not necessarily mean that there is a general conflict of interest<sup>5</sup> - employees have many interests that the employment

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<sup>5</sup> It is on this point that substantial differences of opinion are to be found within the industrial relations community. A widely employed attempt to capture these is the 'unitarist-pluralist-radical' division that goes back into the 1970s (Blyton and Turnbull, 2004; Edwards, 2003). In this, unitarists

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. A number of recent high profile Employment Tribunal cases in investment banking also confirms 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' (Ackroyd and Thompson, 1999) such as theft and sabotage.

For the UK, the 30 years operation of the independent Advisory, Conciliation and Arbitration Service (Acas) confirms the enduring presence of workplace disputes as well giving some impression of the changing patterns. In the case of collective or 'organised' disputes, the demand for collective conciliation increased dramatically

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are portrayed as seeing conflict as pathological; pluralists supposedly see it as endemic but nonetheless containable with appropriate policies and practices; and radicals start from the proposition that there is a general conflict of interest. The problem is that, while it may be useful in depicting ideal-typical views about workplace conflict in society at large, such a framework is not very helpful in understanding the current state of industrial relations studies. Arguably, it never was - the contrast between 'pluralism' and 'radicalism' was nowhere as sharp as it was painted (see, for example, Clegg, 1979). As Ackers (2005) has recently suggested, many of today's differences largely turn on the balance of emphasis between 'institutionalism' and 'materialism', i.e. the weight accorded to the arrangements involved in governing the employment relationship, on the one hand, and the implications of the underlying material conditions of capitalist societies, on the other.

after Acas' formation, rising to more than 3,000 cases in the late 1970s. In the early 1980s it declined year on year to just over 1,100. Throughout the 1990s, it hovered between 1,200 and 1,300 (Goodman 2000), staying at, or slightly below, this level in the first years of the new millennium. The subject matter has also been relatively stable. 'Market relations', in particular pay and conditions, accounted for more than half of all cases in most years. Trade union recognition, redundancy and discipline/dismissal have vied with one another for second place at around 10 per cent of cases, with trade union recognition coming out clearly in recent years, following the introduction of statutory recognition in the 1999.

In the case of individual or 'unorganised' disputes, claims to employment tribunals (ET) showed a seeming inexorable rise throughout the second half of the period, reflecting the expansion in individual employment rights, changes in the access to rights, the attractiveness of remedies and the changing structure and composition of employment (Dickens 2000). From 1976 to 1988, the total number of cases was around the 40,000 mark each year. Thereafter, it grew year on year, passing 60,000 in 1991, 70,000 in 1992 and 80,000 in 1995. It passed the 100,000 mark in 1996 and the 130,000 mark in 2000/1. In recent years the figure has fluctuated, reflecting changes in the operation of ET arrangements: it fell below 100,000 in two separate years, but peaked again in 2006/7 to more than 130,000.

Although many claims are multi-jurisdictional, the dominant issue has been unfair dismissal (accounting for more than 40 per cent of cases). Unlawful deductions from wages (around 20 per cent) and breach of contract more generally (around 10 per cent) have been the next most frequent individual issues.

There is little or no representative data for most of the other expressions of conflict. They are available for absenteeism and turnover for workplaces with more than 10 employees, though, courtesy of the Workplace Employment Relations Surveys between 1990 and 2004. These data suggest that, overall, the incidence of these two indicators has been relatively stable: around three per cent of working days have been lost through absenteeism in each of the years in which the survey has been undertaken, while voluntary resignations have been running at around 14 per cent (Kersley et al., 2006: 230-1). Absenteeism, the Confederation of British Industry (2007) suggests, cost around £13.4 billion in 2006.

### **Level of analysis**

The most appropriate description of industrial relations' approach to the level of analysis of the employment relationship is multi-level. 'The employment relationship is by definition a relationship between an employee and an employer' (Edwards, 2003: 9). The individual level is therefore fundamentally important. Employees can have very different expectations of their employment relationship as the psychological contract literature suggests (see, for example, the reviews in Conway, and Briner, 2005; Sparrow and Cooper, 2003; Taylor and Tekleab, 2005). They can have very different 'orientations to work' as the much older sociological studies of Lockwood (1966) and Goldthorpe (1968) and his colleagues clearly demonstrated, with very different emphases placed on income, status, identity and social opportunity. Similarly, the interpretation of employers' policies and practices can differ from department to department in the same workplace depending of the immediate manager or supervisor - inconsistency of treatment lies behind much of the sense of injustice that many employees experience.

Industrial relations does not focus exclusively on the individual level, however, for very good reasons. Employment for the great majority of employees is a collective activity. Employees work in groups, with many belonging to trade unions and professional organisations. Employers also find it inefficient to differentiate between individual employees because of the costs, most contracts of employment taking a 'standard form'. In Collins' (2007: 2) words,

Employers have formalised the personal work contract by the introduction of substantial written contracts. The written document purports to reduce the obligations of the parties to a comprehensive statement of the terms. Often that statement requires the consultation of other documents that are expressly incorporated, such as staff handbooks and occupational pension schemes. These written documents are usually standard form in the sense that employers issue the vast majority of their employees with pre-formulated printed documents that together purport to contain all or virtually all the terms of the contract.

The behaviour of managers also reflects the organisations in which they work, the nature and extent of the targets and controls they work under being especially important. Also these organisations are also far from being islands unto themselves. The typical workplace is part of a larger organisation<sup>6</sup> and has affiliations to a particular sector. Both company and sector can be seen as 'organisational fields' comprising more than a set of 'objective conditions', such as market structures and technology. They are 'cognitive arenas', where ideas about 'accepted' and 'best' practice are generated and diffused – some companies, for example, have very well-defined philosophical approaches. They are also 'collaborative networks', offering a wide range of opportunities, formal and informal, to acquire and diffuse the information and experience going to make up shared understandings (Smith et al., 1990; Arrowsmith and Sisson, 1999).

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<sup>6</sup> 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 (Kersley et al., 2006: 20).

Work organisations also operate in a complex institutional environment, where national and supranational influences increasingly interact. Take EU member countries. These continue to be characterised by considerable variety in their formal institutions and institutional frameworks (Traxler et al, 2001: 289). Among many others, as the chapter by Roehling (2005) in Coyle-Shapiro illustrates, legal provisions differ significantly in the treatment of such matters as the formation of individual employment contracts, their relationship to collective agreements and their provision for the termination. At the same time, supranational bodies such as the EU also play an increasingly important role in shaping the employment relationship. In countries like the UK, with a strong tradition of ‘voluntarism’, the EU’s extensive ‘soft’ regulation in social affairs described later is tantamount to ‘hard’ regulation. The multi-level governance system that the EU is producing means that the national systems can no longer be understood, and therefore studied, without taking into account the wider European dimension. Equally, EU-level developments cannot be understood without taking into account developments at the national cross-sector, sector and company levels.

The key implication of seeing the employment relationship as a multi-level phenomenon is that employee and employer ‘preferences’ are seen not as ‘universal’, but time and context dependent. Moreover, they reflect not just technology and market conditions but also the ‘governance’ regime, along with wider political and social influences. In Scharpf’s (2002: 5) words, institutions are not just seen as ‘external constraints and incentives structuring the purposeful choices of self-interested rational actors’ ... [rather they] define not only what actors can do, but also their perceptions and preferences - and thus what they will want to do’. In these respects, then,

industrial relations is much closer to the position of politics and sociology than that of economics and psychology.

### **Basis of the exchange**

Industrial relations views the employment relationship as an exchange in which employees receive tangible and intangible rewards in return for selling their labour and/or knowledge power to be used largely at the employer's discretion. Industrial relations does not ignore intangible rewards. In Edwards' (2003: 2) 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'. The fairness of what goes on within the employment relationship has also been a major focus of attention in industrial relations (see, for example, Hyman and Brough, 1975).

If industrial relations prioritises tangible rewards, it is for two main reasons. One is practical. Being quantifiable, and thus generalisable across all manner of jobs, wages are the common focus of policy makers and practitioners alike (Brown and Walsh, 1994: 437). 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 (Edwards, 2003: 8).

### *Residual control rights*

This brings us to what employers get from the employment relationship. This very rarely receives the attention it deserves in either the psychological contract literature,

where the emphasis is very much on the employee<sup>7</sup>, or its economic equivalent (including nexus of contracts thinking), most of which makes no distinction between the 'employment relationship' and 'employment' (Block et al., 2005; Machin, 2006). Yet it is critical if the full significance of the employment relationship is to be appreciated. Basically, as an earlier section suggested, what the employer gets is not a finite amount of work. Rather it is the right to direct employees – in a phrase the employment contract gives the employer 'residual control rights' over employees.

Herein lie the considerable advantages to the employer of the employment contract over the labour service agreement. It 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 (Marsden, 1998: 3). It is more efficient – it cuts down on the amount of time that managers have to spend in renegotiating the agreement with employees. 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 means that managers are able to exercise greater control over issues such as cost and quality, especially important here being the greater information at their disposal as the result of being the employer.

As other sections show, it is these 'residual control rights' that help to account for many of the special characteristics of the employment relationship, ranging from its

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<sup>7</sup> Marsden (2006) reminds us that, although some writers on the psychological contract have adopted a more symmetrical approach, the dominant view, following Rousseau (1995) is that the psychological contract is in 'essence a belief held by employees, and is asymmetrical because logically organisations do not have beliefs'.

nature to the complex structure of managerial hierarchy<sup>8</sup>, employment law and collective agreements that is entailed in its governance. It is these 'residual control rights that also help to explain why the 'managerial relations' involved in the employment relationship are so important not just for business performance, but also for individual well being, in particular health and safety, and human and social capital development more generally. In the words of the OECD (2001: 48), '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'.

### *Contract and status*

To make sense of the differences between types of occupation, industrial relations also usefully distinguishes between 'contract' and 'status' (Streeck, 1987; Edwards, 2003). 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. In the case of 'status', the tendency is to see employee more as an investment over the longer terms. At first sight, 'contract' and 'status' roughly equate with the 'transactional' and 'relational' types of employment relationship that feature in the psychological literature. 'Contract' and 'status' are not concepts along a single continuum, however. Rather they comprise several dimensions. Some of these involve

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<sup>8</sup> More controversial is the underlying rationale for managerial hierarchy. The mainstream view, which goes back to Adam Smith and the division of labour famously portrayed in his pin making example, is that it is to be explained in efficiency terms – it leads to better product flow, task assignment and incentive attributes (see, for example, Williamson, 1985: 232). The alternative view is that, along with the employment relationship, managerial hierarchies are deeply rooted in the emergence of the capitalist system of production – they are not so much the result of a search for a technological superior organisation of work, but one that guaranteed the dominant role in the production process to those who owned the capital rather than those who supplied the labour (see Marglin, 1974; Sabel and Zeitlin, 1985). Either way, the employment relationship, along with limited liability, can rightly be seen as one of the 'two great inventions [that] lie behind the rise of the modern business enterprise' (Marsden, 1998: 3).

a continuum - career is an example. Others represent contrasting types such as 'numerical' and 'functional' flexibility. Table 2 illustrates.

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, as Schalk (2005: 287) argues in Coyle-Shapiro et al, that employers feel under pressure to make increasing demands on flexibility and greater sharing of the risk. Yet this does not necessarily mean a coherent shift in approach that characterises many interpretations. Rather industrial relations emphasises an eclectic mix as employers grapple with the contradictions arising from their need for commitment and control discussed earlier (Marginson et al., 1994; Grimshaw et al., 2001). Thus the two approaches can co-exist in the same workplace in the form of the 'core-periphery' model – core employees usually fall into the 'status' category, while the periphery are closer to the 'contract' equivalent.

**Table 2 'Contract' and 'status'**

	<i>Contract</i>	<i>Status</i>
tasks/ work organisation	highly prescribed	considerable 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

Such a framework also does not necessarily mean equating low skill with 'contract'

and high skill with 'status'. 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<sup>9</sup>. Meanwhile, high 'status' groups 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.

### **Regulation of the exchange**

Industrial relations sees the employment relationship, unlike the contract for labour services, involving a complex '*governance*' regime comprising *institutions* or *rules* to give it effect. The market, which is of paramount importance in the case of the labour services agreement, has a more marginal influence on the employment relationship – it may influence the number employed and the levels of wages, but it is the exercise of the employer's residual control rights that determines performance. These rights involve managerial relations by definition and so institutions. Alongside a *hierarchy-based* structure dealing with work organization, recruitment and selection, training

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<sup>9</sup> Indeed, as Jacoby (1990) reminds us, many of the features associated with the 'status' model are much more recent than often assumed – different forms of subcontracting were 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.

and development and 'performance management' will be found statutory employment rights and collective agreement provisions (where trade unions are recognised), together with a raft of local informal norms ('custom and practice') and expectations of behaviour imported from the wider society. In Jacoby's (2004) words, the corporation is 'embedded'. Consequently, the conduct of the employment relationship, and therefore its impact, can be very different from one occupation, workplace, sector and country to another with wide ranging social, economic and political implications.

It is certainly true, as Coyle-Shapiro and her colleagues suggest, that industrial relations studies have put considerable emphasis on collective bargaining in discussing this governance regime. There are two main reasons. The first is the significance of the coverage of collective bargaining as a rule making process. Collective bargaining remains the dominant method of determining the pay and conditions of around a third of the labour force in the UK, including some six million public services employees. It remains the pre-eminent rule making process for employment matters in many EU member countries, with multi-employer collective agreements having the status of legally enforceable contracts and codes. Differences in the structure of collective bargaining, i.e. the levels, units, forms and status of collective agreements, are also a distinguishing feature of national systems with wide ranging implications for the conduct of economic and social policy.

The second reason for prioritising collective bargaining picks up the objectives of the employment relationship discussed later. Collective bargaining is seen as one of the main ways of balancing the competing interest of employers for efficiency and employee concerns for equity as well as contributing to the development of social capital more generally. Collective bargaining is not, as Flanders (1970) famously

argued, the collective equivalent of individual bargaining. Essentially, it is a form of 'joint regulation' helping to explain the emphasis of many of the pioneers of industrial relations study in the UK and the USA on 'private systems of governance', 'industrial jurisprudence', 'industrial self-government', 'secondary systems of 'industrial citizenship' and the like. The particular benefit of collective bargaining is that it brings the opportunity for employee 'voice' not only in the making of the rules but also their administration. Crucially, and particularly attractive to governments, collective bargaining promotes both 'reflexivity' (the tailoring of the rules to context) and 'compliance' - from involvement comes ownership and from ownership the prospect of some a measure of legitimacy commitment<sup>10</sup>.

Yet industrial relations by no means limits itself to collective bargaining in its understanding of the governance regime dealing with the employment relationship. A major focus of attention is the hierarchy-based structure that is entailed in the exercise of the employer's residual control rights. This embraces two main areas. One is the organisation of work in which employees are involved, i.e. job design, the grouping of jobs into activities and the structures used to co-ordinate these activities. The other is the so-called 'HR toolkit' that figures prominently in Hannah and Iverson's chapter (2005: 334-36) in Coyle-Shapiro et al., i.e. recruitment and selection, training and development, and performance management. This involvement is exemplified not only in the labour process literature where industrial relations has played a major role (see, for example, the review by Edwards, 2007), but also that of human resource

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<sup>10</sup> As Marsden (2006) has recently argued, these points hold true at the second remove where arrangements need to be worked out between employers and individual employees. In his words, 'collective voice can make three major contributions to reinforce the process. It can take key distributional elements out of bargaining so that the individual level can focus more on the 'win-win' aspects of integrative negotiation; it can help improve the design of systems and it can enhance their procedural justice'.

management (HRM) (see, for example, Bach, 2005; Beardwell et al., 2004; Boxall and Purcell, 2003; Marchington and Wilkinson, 2005 and Marchington and Wilkinson, 2005)

Industrial relations also recognises the significance of state involvement in the governance regime dealing with the employment relationship. This involvement mirrors the employment relationship and is also contradictory. As Collins (2003: 5) puts it,

‘Employment law addresses the paradox encapsulated in the slogan ‘labour is not a commodity’. It regulates employment relations for two principal reasons: to ensure that they function successfully as market transactions, and, at the same time, to protect workers against the economic logic of the commodification of labour’.

Thus governments have intervened to uphold property rights and ensure freedom of contract between employer and employee. At the same time, they have introduced mandatory standards that are required to be part of the contract, together with procedures that can lead to variations in it. Consequently, the employment relationship can no longer be understood just in terms of a contract between the employer and employee – be it legal or psychological - it reflects the values in the wider society.

In the UK in particular, where the approach was characterised by a strong tradition of 'voluntarism', i.e. the view that the governance of the employment relationship was a matter best left to the parties themselves, the decline of collective bargaining, coupled with the need to give effect to a raft of EU social dimension initiatives, has meant a

vast increase in legislation dealing directly with the employment relationship in recent years. UK initiatives include a national minimum wage and trade union recognition procedures. EU initiatives range from equal opportunities in terms of age, disability, gender, race, religion and sexual orientation, to health and safety, to collective redundancy and business transfers, to working time, to information and consultation; to maternity and parental leave; pensions; employment agencies; data protection and corporate governance; and so on. As the reviews by Dickens and Hall (2005) and Wood (2005) confirm, a major activity of industrial relations studies has been investigating the extent to which the law is shaping practice, which has involved not just identifying the factors that emerge as important but also accounting for them.

A further correction that needs to be made is that industrial relations does not limit its analysis to the formal rules involved in the governance of the employment relationship. There is widespread recognition throughout the industrial relations community that, in Edwards' (2003: 14) words, 'a rule is a complex social institution, not just a few sentences in a rule book. It can comprise beliefs, ideologies and taken-for-granted assumptions as well as formal provisions of rights and obligations'. There a long history of studies of informality and 'custom and practice' in workplace studies, which dates back to Flanders (1964) and Brown (1972). True, much of this reflected a 'production paradigm' and focused on pay systems and overtime (Korczynski, 2003). In the 1990s, however, the focus shifted to the service sector in line with the changing balance of employment. Here the emphasis has been not so much of the formal rules of management and employees reaction to them, but its ideological programmes designed to 'win hearts and minds' of employees above all where they are required to interact with customers or clients. As the reviews in Deery (2005) and Edwards, M. (2005) confirm, there have been studies of programmes of total quality management

(TQM), customer care, 'management by customers', i.e. customer surveys, team working and employee branding from this perspective, along with the promotion of the psychological contract and corporate social responsibility. The ethics of much of this activity, particularly where it involves attempts to manage the emotions of employees, have also been questioned along with the implications for the integrity of the HR practitioner (Doherty and Tyson, 2000; Winstanley and Woodall, 2000). As Edwards, M. (2005: 281) 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?'

This helps to account for the scepticism with which the industrial relations community regards the concept of the 'psychological contract'. From an industrial relations perspective, the 'psychological contract' can be a useful concept when, as in the case of the UK literature (see, for example, Herriot and Pemberton, 1997; Guest and Conway, 2002), the older tradition is followed of seeing it as the perceptions of two parties of their mutual obligations. As Cullinane and Dundon (2006) put it,

'The psychological contract ... [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'.

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'. If this is the case, however, the psychological contract is reduced to beliefs held by employees, raising questions

about the validity of the notion of a contract (see, for example, Guest, 1998a and b). Even if it may not be the intention, it is also an open invitation to managers to ‘step into the realm of manipulation’. Cullinane and Dundon's (2006) conclusion may seem harsh, but is likely to be widely shared: ‘In its present form, it [the ‘psychological contract’] symbolizes an ideologically biased formula designed for a particular managerialist interpretation of contemporary work and employment’.

### **Process of the exchange**

Industrial relations sees the processes involved in managing the employment relationship as essentially political ones. They involve on-going negotiation against background of an asymmetric or unequal power relationship<sup>11</sup>.

#### *A critical role for negotiation*

‘Negotiation’, it cannot be emphasized enough, is seen as a feature of one-to-one relationships as well as management-trade union ones. By it is meant the processes that parties use to define and redefine the terms of their interdependence with one another. It plays an especially vital role where this interdependence is characterised by uncertainty and incompleteness as in the case of the employment relationship. The terms may be issued by employers on a take it or leave it basis, but levels of effort are a very different matter. 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’. Indeed, such is the importance of negotiation that industrial relations sees the work organisation as ‘a system of negotiated order’.

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<sup>11</sup> This is in stark contrast to nexus of contracts thinking. In Khurana's (2007: 325) words, this not only ‘denies any unique relationship between an organisational leader and other constituents ‘... but also ‘conveniently dispenses with issues of power, coercion and exploitation’.

Walton and McKersie's *Behavioural Theory of labor negotiation* (1965) outlined in Table 3 is the framework most widely used in industrial relations and is especially helpful in making sense of two recent major developments. The first is a shift in the balance of collective negotiations between 'distributive' and 'integrative bargaining' underpinning what is known as 'partnership working' in the UK, 'mutual gains bargaining' in the USA and 'pacts for competitiveness and employment' in many EU member countries (Sisson and Artiles, 2000)<sup>12</sup>. National-level social pacts involving governments might also be seen as examples of integrative bargaining. Common characteristics include a strong element of problem solving and 'quid pro quo' bargaining. It is also often management (or government) that initiates the negotiations, coming to the bargaining table with its own negotiating agenda. In the case of management, two issues are key. One is the need to secure greater flexibility in areas such as working time and work organisation. The other relates to the issue of recognition. Intensifying competition requires management both to minimise costs and promote the co-operation and commitment of the workforce necessary for continuous improvement. Historically, it was sufficient for management to have the passive or implicit recognition of its right to manage from employee representatives. Given the nature and extent of the restructuring currently taking place, however, this implicit recognition is no longer enough. Management needs the legitimacy that only explicit recognition can bring through agreement over change.

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<sup>12</sup> Integrative bargaining can also take place at the individual level. Marsden (2006) gives two examples involving performance management in the British public services. The first concerns teachers and the priorities they accord to teaching test and non-test elements of their subjects. The second is of hospital workers and the promotion of more flexible working of unsocial hours in order to provide better continuity of care for patients.

### **Table 3 Walton and McKersie's framework**

*Distributive bargaining.* Deals with the allocation of resources, including power and status as well as economic and is what 'negotiation' is commonly associated with. In effect, assumes a fixed or zero sum in which one party wins what the other loses. In terms of tactics, threats and bluffs tend to abound along with every effort to demonstrate commitment to positions.

*'Integrative' or 'co-operative' bargaining.* Deals with issues of common concern, where a compromise can bring benefits to both parties - a variable rather than fixed sum game. Different tactics from distributive bargaining' will be found – less use of threats and bluffs, more use of the timing of agenda items and more focus on 'persuading' the other party about where their best interests lie.

*'Attitudinal structuring'.* Reminds us that negotiation is not just about the immediate terms of exchange. It is also about defining relationships, influencing attitudes and shaping preferences. This process is critically important in the employment relationship, which is on-going, with a past and a future as well as a present.

*'Intra-organisational bargaining'.* Draws attention to the fact that wherever groups of people are involved, there are likely to be differences of opinion and/or interest between the members, leading to a collective action problem. For example, the various management functions may not agree on the relevance of a particular HR initiative. Individual managers may exercise their agency functions differently, giving rise to inconsistency of approach.

The second development is primarily associated with management-employee relations and is the increasing resort of management to 'attitudinal structuring' reflected in cultural change initiatives, motivation campaigns and promotion of the 'psychological contract'<sup>13</sup>. Much of the emphasis, as an earlier section suggested, is designed to gain the greater commitment of employees above all in the service sector where they are required to interact with customers or clients. In the case of the promotion of the 'psychological contract', however, another objective can very often be identified that

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<sup>13</sup> As Marsden (2006) points out, psychological contract researchers also appear to have difficulty in finding a place for negotiation in their analysis. He suggests that this is partly 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. Thus, Conway and Briner (2006) suggest that there are three strategies for change: unilateral imposition by management, communication, and negotiation. Yet they go on to suggest that the negotiation of psychological contracts raises theoretical difficulties because it is not clear how one can negotiate over changes in beliefs. Attitudinal structuring, it seems, is not regarded as negotiation.

takes us back to the contradictory nature of the employment relationship from the employer's point of view. Very often, promotion of the psychological contract is being used as a cover for employers to withdraw from some of the commitments that they have felt obliged to make to maximise cooperation and commitment and that that employees have come to expect. For example, employees are led to believe that, while the employer can be expected to offer opportunities for 'employability' in the form of training and development, they can no longer promise 'employment security'. Similarly, employees are being encouraged to think that it is right and proper that they take responsibility for their careers and pension funding – tangible benefits of the employment relationship that many employers have been providing, but no longer feel they can afford.

The interaction that negotiation gives rise to 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 a particular practice and an outcome. More often than not it is the state of the relationship that makes the critical difference and the policy or practice can have a very different outcome as a result. Such relationships can also take considerable time and effort to change. Moreover, one case of what a party sees as a breach of trust can set back years of relationship building.

### *Power*

In the words of a major textbook dealing with political analysis (Hay: 2002: 168), 'politics' and 'the political' are concerned with 'the distribution, exercise and consequences of power'. The same could be said of industrial relations and the employment relationship. Power is a concept that is used in two main ways (Edwards, 2006; Edwards and Wajcman, 2005). The first sees power as something that one

individual or group possesses 'over' others. The starting point, and also the basis for much employment law<sup>14</sup>, is that the employment relationship is an unequal or *asymmetric* one, with the employer having domination or power 'over' the employees. In theory, the employer and employee are equal parties to the employment relationship. In practice, they are very unequal. The employee is a single individual usually with very limited resources – he/she has to work in order to secure income. The employer is a corporate entity most often with substantial resources at its disposal, which can be economic, political or ideological. Thus employers have the capacity to deny the employee income; have the backing of the law in exercising their residual control rights; and are in a position to deploy a wide variety of techniques with which to seek to influence the 'hearts and minds' of employees.

Following Lukes (1974; 2005), the exercise of power 'over' is also seen as having three 'faces'. The first 'face' equates power with decision-making. The second 'face' introduces the ability to set the agenda, which may not be as visible and so as easily transparent. The third 'face' is an altogether different proposition on both these counts. It is the ability to shape people's expectations. This is a form of ideological power, helping to explain the emphasis on attitudinal structuring as a key negotiating process.

Putting the main emphasis on employers is not to suggest that employees are powerless. As well as the costs of monitoring, which can be prohibitively expensive, studies show that the continuous nature of the employment relationship provides

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<sup>14</sup> Freedman (2006: 28) 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'.

workers with considerable opportunities not only to resist management initiatives but also impose their own definition on situations (see, for example, Edwards and Scullion, 1982). Also important is the external environment: labour market pressures and concerns for the organisation's reputation can impose considerable constraints on managers' behaviour (Wachter, 2004: 181-2).

The second way in which power is used in industrial relations stresses the positive dimension. Power is seen as a resource that can be 'productive' and 'transformative' – it is more a question of power 'to' rather than power 'over' (see, for example, Edwards, 2006). Important here is the recognition that power is not just something that is possessed by individuals or groups. Power also resides in structures embedded in continuing social relationships that enable groups to contribute. It is essentially this kind of power that proponents of the resource-based view (resource based view) of work organisations would appear to have in mind in describing them as 'capability structures' (Morgan, 2005: 5). These embrace such 'capabilities' or competences as relevant employee skills and knowledge, technical systems e.g. databases and software programmes, managerial systems, the organisation's systems of education, rewards and incentives and values and norms, i.e. systems of caste and status, rituals of behaviour, and passionate beliefs associated with various kinds of technological knowledge (Leonard, 1998: 19).

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 wasn't.

Arguably, though, the 'productive' and 'transformative' power that resource based view proponents refer to, involving individuals going the proverbial extra mile, is less obvious in employment, where work is so often endured, than it is in voluntary

organisations, where it tends to be enjoyed – indeed, it is the absence of this form of power in work organisations that commentators imply when they suggest that managers have a problem of engagement. Arguably, achieving this kind of power ‘to’ 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. Too, often, it seems, these arrangements fall short of the model that (Williamson, 1985: 239) had in mind in arguing that hierarchy is the most effective and efficient method of governance for the employment relationship: ‘reliance on hierarchy is excessive (generates adverse side effects)’ and appointments to hierarchical positions are not ‘made in a way that promotes efficiency and commands general respect’.

### **Aims of the exchange**

Like a number of features, views about the aims of the employment relationship are often implicit rather than explicit in many industrial relations studies. They are nonetheless distinctive as well as powerfully grounded. Kaufman (2007) reminds us that 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*’. He adds that this core principle is most prominently displayed in the Constitution of the International Labour Organisation (ILO), created by the Treaty of Paris at the end of World War I (Kaufman, 2004a). The first of nine principles enumerated in the Constitution of the ILO could not offer a starker contrast with the view that is implied in nexus of contracts thinking. It reads: ‘Labor should not be regarded as a commodity or article of commerce’.

One of the most up-to-date expressions of this perspective is to be found in Budd (2004), who talks in terms of the objective of the employment relationship embracing the goals of employers, employees and also of society, i.e. efficiency, justice and voice<sup>15</sup>.

‘Efficiency is an instrumental standard of economic performance – the effective use of scarce resources that provides the means for consumption and investment – and is the primary objective of employers. Equity and voice are objectives of labour. Equity is an instrumental standard of treatment – a fair wage, basic social or private insurance cover, vacation time, and non-discriminatory treatment are instrumental in providing the means toward greater ends such as food, shelter, health care and leisure. Voice is an intrinsic standard of participation – participation in decision making is an end in itself for rational human beings in a democratic society. Intrinsic voice is important whether or not it improves economic performance, and whether or not it alters the distribution of economic rewards’ (Budd, 2004: 13).

Budd (2004: 19) goes on to spell out the various dimensions that have come to be associated with these main objectives, along with their rationale (see Table 4). As will be seen, the rationale for many of these is expressed on both efficiency and ethical grounds. This is especially true of employee voice, which is seen not just as an intrinsic good, but also a major contributor to business performance for the reasons cited earlier.

Budd gives a good impression of the kind of objectives that industrial relations has seen involved in the employment relationship, together with the implications that they have drawn for practice and policy. If there is a criticism, it is that he does not go far enough in emphasising enough the importance of the employment relationship in the

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<sup>15</sup> For discussions of the significance of ‘justice’ and ‘voice’ in the UK context, see respectively Edwards (2005) and Coats (2004).

development of human and social capital for society as a whole. Here there are important links between industrial relations analysis and the resource-based view touched on above. The firm or business is a social organisation. The employment relationship involves market and managerial relationships and its conduct is critical: there are implications for health and well-being, where the connection between employment, stress and mental illness is an increasing focus of attention; the quality of family life, where the duration and flexibility of working time are major considerations; and personal development, where it is not just a matter of formal opportunities, but the extent to which work organization (the degree of autonomy, task complexity and problem-solving) encourages the development of social skills such as team working; and 'citizenship, where 'voice' arrangements enabling employee views to be heard and acted upon encourage greater participation and social responsibility. Moreover, as the example of the Scandinavian countries suggests, these outcomes are not incompatible with business performance: the greater the contribution work organisations make to developing human and social capital, the richer the resources they have to draw on. The problem, to paraphrase Edwards (2005) in discussing justice, is that it is rarely in the interests of any one employer to promote these outcomes: this is above all true where nexus of contract thinking reigns supreme.

**Table 4 The objectives of the employment relationship: efficiency, equity and voice**

<i>Objectives</i>	<i>Rationale</i>
<p><i>Efficiency</i></p> <p>Market-based transactions and contracts            Minimum labor standards (wages, hours, family leave, advance notice, child labor)            Income maintenance (unemployment insurance, workers' compensation, pension standards)            Industrial peace            Increased labor bargaining power</p> <p>Workplace public goods            Equality of opportunity</p>	<p>Allocative efficiency            Externalities (social cost, purchasing power), asymmetric information            Asymmetric information, costly dispute resolution, liquidity constraints            Externalities (social cost)            Externalities (social cost, purchasing power), mobility costs            Externalities (free riders)            Externalities (social cost)</p>

<i>Objectives</i>	<i>Rationale</i>
Employee representation/participation Just cause dismissal	Coordination failure, asymmetric information Coordination failure, costly dispute resolution
<i>Equity</i>	
Minimum labor standards (wages, hours, safety, family leave, advance notice, child labor)	Human dignity (moral and religious)
Balanced distribution of income	Political equality/liberty
Equality of opportunity	Human dignity (moral and religious), political equality/liberty, due process rights
Just cause dismissal	Human dignity (moral and religious), political equality/liberty, due process rights
<i>Voice</i>	
Industrial democracy	Political equality/liberty/democracy
Employee decision making and autonomy	Human dignity (moral and religious), psychological/social needs, property rights (stakeholder theory)
Free speech	Liberty/human dignity (moral)
Political employee voice	Political equality/liberty

Source: Budd (2004: 19).

### **Contextual influences on the exchange**

Industrial relations does not just put considerable emphasis on institutions in understanding the conduct of the employment relationship. A major focus of attention is the inter-relationship between the governance arrangements and the wider environment. Unlike much of the psychological and economics literature, which see the external environment impacting directly on the individual exchange, industrial relations sees these governance arrangements mediating the impact of changes in the environment, helping to explain the considerable differences between occupations, workplaces companies and countries. In formal terms, the institutions involved in the governance of the employment relationship are seen as both a dependent and an intervening variable, with causes to be explained as well as effects to be assessed.

Many schema have been produced (see, for example, Blyton and Turnbull (2004: 42) and Kaufmann (2004: 50), the starting point for which is usually Dunlop's *Industrial*

*Relations Systems* (1959) published almost half a century ago. Put briefly, this sees industrial relations actors, i.e. 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.

There is a long-running debate in industrial relations about the status of such schema – whether they have the potential for developing an integrated theory 'of' industrial relations (see, for example, Kaufman, 2004) or are to be seen as useful heuristic devices (Hyman, 2004; Sisson, 2007). More importantly for present purposes, however, is one of the central issues that Dunlop (1958: 94-7) raises, i.e. the relative importance in shaping the governance arrangements of the locus and distribution of power in the wider society as opposed to technological and market considerations. This is critical in understanding recent developments and the relative influence of the resource based view and nexus of contracts doctrine outlined earlier. Very clear is that, while the resource based view may have the upper hand rhetorically, it is the nexus of contracts doctrine that is the major influence on practice. Arguably, however, this has less to do with the general advantages cited earlier and much more with the balance of forces that line up behind the two models. On the one hand are a historically weak HR function and a trade union movement declining in numbers and losing its ability to influence events through collective bargaining, supported by a relatively minimal framework of employment rights. Large-scale immigration has also helped to minimise the wage pressures that might otherwise have helped to bring about change. On the other are three groups who are benefiting considerably from 'financialisation': top managers, whose relative pay has soared, and two groups who derive their income from share price-related activities: 'active' or 'aggressive'

shareholders such as Private Investment Groups and Hedge Funds; and a veritable 'industry' of business intermediaries such as senior investment bankers, city analysts and traders, accounting and law partners, consultants, and senior advertising and PR executives<sup>16</sup>. In this case, support comes not just from company law, which privileges shareholder rights, but also the dominant neo-liberal approach to running the economy, which means a limited role for government and pressure to be business-friendly<sup>17</sup>. The upshot is that, while politicians have espoused the 'high performance working' and the 'knowledge organisation' associated with the resource based view, they have showed little appreciation of the barriers to bringing them about or an appetite to do anything to overcome them.

## **Conclusions and implications**

It is to be hoped that this paper has helped to correct the misunderstandings that there appear to be about the industrial relations perspective on the employment relationship. Industrial relations is not just about trade unions and collective bargaining. Nor is it just about the conflict to which the employment relationship can give rise. It is about the governance of the employment relationship in its totality, along with its economic, political and social implications. Hopefully, too, the summary in Table 4 also shows that the subject has gone a long way towards achieving the multi-level and multi-

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<sup>16</sup> According to Erturk (2006) and his colleagues, in 2003-4 these 'business intermediaries' numbered around 10,000 on the basis of tax returns of those earning more than £350,000 a year and would most likely reach 20,000 by 2006-7. See also Folkman (2006).

<sup>17</sup> It says a great deal that the government department with prime responsibility for the area, the Employment Relations Directorate, sits within the 'Fair Markets' group of a Department of Business, Enterprise and Regulatory Reform.

disciplinary perspective on the employment relationship that Coyle-Shapiro and her colleagues rightly believe should be the ambition.

The significance of the industrial relations perspective can be illustrated by reference to the debates and issues touched in the Introduction. In the case of the psychological contract, it prompts two main conclusions. The first is that the psychological contract approach offers, at best, a partial framework for analysing the employment relationship. It may deal with an important and often neglected dimension of the employment relationship. Yet, as more sensitive proponents have emphasised (see, for example, Guest, 2004), it has to be put into context, which means drawing on the kind of analysis that the industrial relations perspective offers. The second point relates to the particular form that the psychological contract approach takes – whether it focuses on the mutual expectations and obligations of employer and employee or is exclusively concerned with the employee's perceptions. Not only is it highly debatable whether the latter approach is deserving of the label 'contract' – a 'contract' assumes an understanding between two parties. Even more importantly, this approach surely deserves the very healthy scepticism with which most of industrial relations community regards it. It may not be the intention of proponents to 'step into the realm of manipulation'. Arguably, however, this can very easily be the effect – for example where management exploits the concept to cover its withdrawal from traditional commitments such as career or pensions.

In the case of the 'fragmentation' of employment, as Marchington (2005) and his colleagues show, multi-level and multi-disciplinary analysis grounded in the industrial relations tradition draws attention to causes and effects that simply do not figure in nexus of contracts thinking. Crucially, it emphasises that many of the developments

associated with 'fragmentation' are not inevitable or automatic in their operation. Rationality and efficiency may be invoked as the justification for change, but it is institutions that are central in shaping the particular strategies that are adopted, covering issues such as employee employment rights in change-of-employer situations (including the nature and extent of consultation), collective bargaining (whether, in particular, there are provisions for sector wide terms and provisions), the details of the frameworks dealing with subcontracting, the nature of the reward systems incentivising managers to prioritise some objectives over others, and so on. Also central are the issues of power and negotiation in terms of explaining both why institutions take the form they do and why they operate in the way they do. Here, it needs to be emphasised, employer-employer as well as employer-employee relationships are affected, with the avoidance and shifting of risk being of paramount importance: railway maintenance is perhaps the most obvious example.

As for the effects of 'fragmentation', there are most obviously the implications for pay and conditions: many employees 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. Perhaps most fundamentally, though, are the wider implications that an industrial relations perspective highlights. Traditionally, even if the resource based view has not been invoked, the assumption has been that work organisations are a major source as well as beneficiary of human and social

capital development, with the way the employment relationship is managed making a major contribution. If, however, work organisations are to be no more than contracting sites, the implication is that they cannot be expected to bear these responsibilities. It is a measure of the significance of the employment relationship that, if this is to be the reality, most aspects of government economic and social policy that will need to be reviewed.

#### **Table 4 Industrial relations and the employment relationship**

- The employment relationship is an *exchange relationship* whose distinguishing feature is that it involves both *market* and *managerial relations*.
- The *basis of the exchange* is that employees receive tangible and intangible rewards in return for selling their labour and/or knowledge power to be used largely at the employer's discretion.
- The *nature of the exchange* is, by definition, indeterminate, continuous, exploitative and contradictory. The employment relationship is indeterminate or incomplete because, while wages and conditions can be set, the residual control rights accorded to employers in return largely remain unspecified 'by design' (Collins, 1991). It is *continuous* or open-ended in as much as it involves more than a one-off exchange – there is a past and a future, in which learning and socialisation play important roles; there are also more or less constant pressures on and opportunities for the parties to seek to adjust the exchange in their favour. It is *exploitative* in as much as employers 'utilise' employees for 'their own ends'. It is *contradictory* in as much as employees cannot be 'commodified' as the exchange implies and employers have to pursue the potentially mutually exclusive strategies of control *and* commitment.
- The employment relationship is intrinsically both *co-operative* and *antagonistic*. It is *co-operative* in as much as employers and employees are mutually dependent on one another to secure their goals. At the same time, it is *antagonistic* because of the relationship's indeterminacy, continuity and underlying contradictions. Antagonism is a feature of both 'market' and 'managerial relations', manifesting itself in 'organised' (e.g. strikes) and 'unorganised' (e.g. absenteeism) conflict.
- The employment relationship, in particular the exercise of the employer's discretionary rights, involves a complex '*governance*' regime of institutions or rules to give it effect. This embraces a *hierarchy-based* structure dealing with work organisation, recruitment and selection, training and development, and 'performance management'; legislation that the state is obliged to introduce to deal with conflict, ensure a basic floor of individual employment rights and promote employee participation; and the efforts of trade unions and professional organisations to influence the rules and rule making processes, either unilaterally or jointly in collective agreements, on employees' behalf. Complicating matters further is that, supplementing the formal rules, and interacting with them, are informal norms comprising local 'custom and practice' arrangements and expectations of behaviour imported from the wider society.
- The employment relationship involves *negotiation* in making and administering the 'governance' regime – in a phrase the work organization is 'a system of negotiated order'. *Negotiation* is a feature of both management-employee and management-trade union relations, reflecting the employment relationship's indeterminacy, continuity and contradictions. It also embraces 'attitudinal structuring' (i.e. influencing relationships and shaping preferences) as well as distributive and integrative bargaining.
- The employment relationship involves the exercise of *power*, which is unequally distributed between employer and employee. Power is understood to be both domination or power 'over' and power 'to', i.e. a resource capable of being 'productive' and 'transformative'.
- The employment relationship is a *multi-level* phenomenon. It is by definition one involving individual employees and employers. Yet employment is mostly a collective activity; employees work in groups and grades, many belonging to trade unions and professional organisations. Also it has major implications for human and social capital development as well as economic performance and so is a matter of concern not just for employers and employees but society at large. Consequently, employers operate in an institutional environment, where survival depends not just on economic success, but also the legitimacy of the ways in which they conduct their business. Along with the 'governance' regime, employee and employer 'preferences' reflect not just technology and market conditions but also wider political and social influences, meaning that they are not 'universal', but time and context dependent.

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Industrial relations is a multidisciplinary field that studies the employment relationship.[1][2] Industrial relations is increasingly being called employment relations or employee relations because of the importance of non-industrial employment relationships;[3] this move is sometimes seen as further broadening of the human resource management trend.[4] Indeed, some authors now define human resource management as synonymous with employee.Â Industrial relations scholars and practitioners therefore support institutional interventions to improve the workings of the employment relationship and to protect workers' rights. Industrial relations or employment relations is the multidisciplinary academic field that studies the employment relationship; that is, the complex interrelations between employers and employees, labor/trade unions, employer organizations and the state. The newer name, "employment relations" is increasingly taking precedence because "industrial relations" is often seen to have relatively narrow connotations. Nevertheless, industrial relations has frequently been concerned with employment relationships â€¢ Industrial relations focuses on employees regarded as a collective body while employment relations put a strong emphasis on employees regarded as individual; â€¢ Employment relations are based on greater cooperation between management and employee, being motivated to add value to the organization.Â [7] Sisson, K. (2003) Putting the record straight: Industrial relations and the employment relationship, Warwick papers in industrial relations, University of Warwick, 2008, pp. 4. [8] Anderson, C. (2014). Makers: The new industrial revolution, Crown Business, New York. [9] Leat, M. (2007).