

Managing Employee Relations

- How does the ER impact upon business?
- What does the changing nature of work mean to the study of ER?
- Where does the study and practice of HRM and ER/IR overlap or differ?

What is the Employment Relationship? – Employee Centric Definition:

Created whenever one person sells his or her labour to another and thereby works on behalf of the other person or organisation (includes volunteers)

Expansion definition of ER:

The ER is an economic, legal, social, psychological and political relationship in which the employees devote their time and expertise to the interests of their employer and in return receive personal, financial and non-financial rewards.

ER relationship involves two parts:

Market transaction: conditions of employment traded for \$\$ (cost of labour)

Production relation: The employee has to deliver on their promise - to work to the best of their ability in an appropriate environment to produce for employer

Practical Definition

ER = Ongoing/complex and ideological (both collectively/individually) involves:

- Representation of both sides
- Industrial arrangements and frameworks & negotiation and compromising

Illustrate the complexity and different aspects of the ER

The ER sees employees/ers having both common & conflicting interests in the ER. The management of conflict requires recognition & representation of each sides interests and the appropriate institutional arrangements in which those interests are negotiated such as collective bargaining

* In addition to PESTL, we added how it's a historical, cultural and ideological relationship (complex relationship)

What is IR/ER? – The parties, processes and outcomes regulating the ER

- Dominated by cooperation rather than conflict
- Takes place nationally, industry, organisation, workplace (level of analysis)
- IR issues = Conflict & Resolution: employer/ees conflicting & common interests

Key Words

- Power + Control: relationship revolves around who has power/control
- Gender Gap, Rights, Communication
- Unfair Dismissal – When is it reasonable to sack someone?
- Contract – between employer/ee – Awards (Safety Net/Minimum conditions)
- Enterprise Bargaining – negotiation of contract (significant part of regulatory framework – between unions and employers – objectives differ)
- Fairwork Ombudsman (aka watch dog - officer under Fairwork Commission)
- Protected Action = Authorised strike (union won't face fine – avoid hardship)
- Fairwork Commission – set up under Fairwork Act, which controls system

Theoretical Perspectives

What is theory?

- Set of ideas that go together to explain something
- Helps us predicts & manage future by understanding how the enterprise works
- Framework for making sense of the world (understanding of a cause and effect)
- Better you understand a phenomenon, better you can manage it in workplace

Lewin's 5 levels (complexities) of explanation

1. Description – particular standpoint. Where you give an account of an event but it's something more than mere observation (lowest level)
 2. Taxonomy – classification/grouping scheme designed for a particular purpose that groups together events of phenomena on the basis of similar characteristics (creates order from observations – 1st step in theory building)
 3. Model – Shows how various factors may affect each other. This is a simplification or representation of relationships between events of phenomena and designed to provide a clearer picture of the world (1st step to draws connections)
 4. Law – cause/effect – says what happens rather than why or how. Statement of relationship between two or more variables that inevitably produces the same outcome ($X + Y = Z$)
 5. Causal Theory – Complete answer/analysis to why or how questions: helps predict/correct problems (Most sophisticated/highest level of explanation)
- * Causal Theory not possible in social sciences but can develop models & laws. We can't predict with certainty what's going to happen in ER: 2 reasons
1. Complexity of ER (many variables both inherently and contextually)
 2. People don't always behave rationally (people are often unpredictable)
- ER is mainly Description + Taxonomy (doesn't explain why situations occur)

We can and have developed models for the ER, which raises the question:

What are the elements of the ER model?

Rules: regulate the ER (they provide the means to prevent or resolve inevitable conflict – they allow conflict to occur and then negotiated)

Two Taxonomy's of Rules

1. Formal - determined through the institutions –(statues & delegate legislation)
Informal - Tacitly agreed processes and ways of doing things – customary behavior in which both sides understand but not written down (unofficial)
2. Substantive - Govern essential terms of ER (wages, hours, conditions)
Procedural - Govern the processes that are used in resolving conflict in ER (tells us how things must be done for resolving disputes – open door policy)

The 1st Substantive model was produced by Dunlop in 1950's

Most significant point about model is that it identifies who are the parties in the

ER – 3 parties that produce the rules:

The State, Employees, Employers

There is a relationship between 3 parties so why can't we predict ER outcomes?

What is the nature and role of agency?

Problem = AGENCY: changing decisions

(Difficult to predict outcomes: people= unpredictable/complex)

However we can understand their broad value systems that informs their DS:

What are the Theoretical Perspectives?

Unitarism:

- Dreamers (everyone on same page – unions as trouble makers)
- Every workplace is an integrated and harmonious entity (mutual respect)
- Assumes that each org. has common purpose & shared goal
- See management role as providing strong leadership & good communications
- Role of employees (to be loyal to org and recognise 'common' objectives)
- Where industrial conflict exists, temporary and usually induced by bad comms
- Trade unions (seen as competitors with management – unwelcome intruders)
- Recognise that unions compete with management for loyalty of employees

- * Impact of this perspective: rules made by management, no need for negotiation and the outcome they say would be productive workplace
- Poorer working conditions for employees (critics' point of view)

Pluralism:

- Realists/Democrats (all parties should have power)
- Philosophy: ER is complex with many different interests/aims
- Power is and should be diffused (spread) and no party dominates the other
- See ER as open-ended and shared/competing goals
- Role of state: seen as guardian of public interest – exists to protect the weak aka those without power but also ensure everyone can participate in ER
- Management: deal with conflict fairly – shouldn't expect total loyalty
- Unions are legitimate representatives of employees interests in ER: have a right to challenge employers and responsible to seek compromise with employers
- Industrial conflict: recognises that it's inevitable due to competing interests

- * Impact of this perspective: there is a need for a dispute resolution framework so that mutual gains can be achieved through a structured negotiation and compromise. Through this framework and recognition of parties – more balanced and controlled structure.

Radicalism:

- Revolutionaries (Marxism – state/government looking after employers)
- ER as enduring conflict (inevitable due to different objectives regarding unequal distribution of wealth and profits in capitalism)
- Power: unfairly in hands of employers (protecting the owners)
- Associated with Marxist perspective: fundamental conflict on interest between workers & employers (Known as the class struggle)
- They argue that unions are necessary because employees are so vulnerable: unions provide collective voice which can then challenge the control of management and hence the distribution of the profits.

* Impact of this perspective: they would like to see ownership of profits and means of production in hands of state to end the class struggle. They would like to see greater power for the unions as representatives for workers and critics of radicalists say loss of individuality and more centralized control.

How do these ideas of theoretical perspectives go together?

- Values/Ideologies influence the diagnosis of a problem and solutions offered
 - One's theoretical perspective affects decisions, behaviour & action in management of ER
 - Agency is exercised by key 3 players who's perspectives are influenced by and who themselves influence the political, cultural, economic, historic and legal (3 parties help us to not only understand ER but also to help manage it)
 - 3 key players in turn under the influence of those ideologies make the rules for the ER framework
-
- The theoretical approach used in this class is characterised by a pluralist perspective and the use of rules and rule making as the key tool for understanding the employment relationship
 - HRM offers a unitarist perspective that is a mix of concepts, usually about organisation structure and the psychological contract of employee with org.
 - The Marxist and labour process school uses a radical approach of class conflict and control as its analytical tool

Historical Overview of Australian IR System

Most Significant change is from a system based on fairness, equity and collective bargaining to a NOW = Central concepts

- Productivity
- Efficiency
- Enterprise bargaining

The State – Party #1

What is the State?

A complex network of institutions (regulatory agency's, independent statutory authorities, quasi governmental organizations)

Include: Industrial Relations Commission, Fairwork Ombudsman, Federal Court

What are the arms of the state?

There are 3 arms of the state: Designed to ensure that there is a preventive or a minimisation of prevention of abuse of power and therefore a more just society.

The plurality of institutions that make up the state include:

1. Legislator: Parliament (makes the rules) - Federal/State (two levels)

- Law making bodies, elective representatives – focus on federal level
- Makes laws for ER: WHS Act, Discrimination Laws, EEO
- Parliament also sets up the structures for making the rules – Fairwork Act (Fairwork Ombudsman & Fairwork Aus to manage conflict between parties)

2. Executive: The elected government aka (ministers) and the public service

- Independently are responsible for the laws being put into practice
- If not being observed, the third arm comes into play
- Public service administers and government administer policy/rules made by the legislator to ensure employee have safe workplace by putting rules into place (public service works with the minister)
The people that work in the administrates help the government implement its policies such as people who work for the state – e.g. Fairwork Commission
- Ministers direct the public servants
- Fairwork Ombudsman (people bring complaints to)
- AHMC = part of executive (department created by government)

3. Judiciary: The judges in the courts - FWC

- Represent the people in the disputes (independent umpire)
- Once appointed, can't be shifted until they retire
- Role = to interpret and enforce rules made by legislator aka parliament and to resolve disputes when parties can't resolve themselves and make law (common law aka judge made law)
- Federal Court prime court who deals with ER – deal with unions and other similar matters that can't be solve elsewhere

* This taxonomy is called the separation of powers

* All three arms operate independently of the government

Separations of power (Tensions exists between the arms)

Government is part of the state (in control of the Parliament)

Theoretical Perspectives and the State

→ Unitarism: say that role of state should be minimal

The state intervention in the employment relationship should not be necessary as conflict not inherent and all working towards a shared goal

→ Pluralism: say that state should be minimal

State has a legitimate role just as the other two parties

The state acts as a guardian of the 'public interest'. Protects the weak, constrains the strong (state has been aligned with pluralistic perspective up until the 1980's – states environment is moving more towards a neo-liberal perspective which is more in tune with the unitarists)

→ Radicalists = state is there to help the owners as the means of production but shouldn't be there at all. State favours the interests of capital over labour

Problems with theoretical view of state in IR

- Notion of agency (as making it less certain of a uniform state based system)
- Move towards a much more market orientated system
- The state has become far more unitarist (neo-liberal) aka market oriented and decentralized, more withdrawn from intervention in private sector disputes
- As an employer the state has become much more managerialist - states role has significantly changed as it's moved away from control to light touch regulation

* Moved from a centralized approach to ER to a more corporatist approach

Centralised = unions negotiating for big groups (wage fixing/conditions were much broader – one award would cover lots of workers in same industry)

Corporatized = Awards have moved from general to enterprise agreements (EBA's) – each different business can negotiate its agreement with the employees where union may or may not be involved (due to the Accord, Fair Work etc)

* Move from PLURALIST perspective – allowing parties to negotiate and resolve conflict & give employees voice but in last 20-30 years → UNITARLIST ideology.

How has/does the state intervene in industrial relations in Australia?

Different perspectives about how the state should be involved

The State has been viewed as performing 3 main functions:

1. As the regulator: setting laws/boundaries

- Setting minimum employment standards
- Creates frameworks: for resolving conflicts and balancing power
- Arbitrator: appoints the judges to limit and resolve industrial conflict

2. The Arbitrator: responsible for resolving the conflicts

3. As an Employer: (through the public sector)

Because state employs a large number of employees which has had a major impact in the way that the ER evolves

The future of the state in industrial relations

- Role of the state is playing a much smaller role in the process
- 'Light touch regulation' and move to a profit driven model (e.g. Australia post)
- Anticipated change – parties expected to become more creative in negotiations