Models of National and International Regulation: A Frames of Reference Approach

Professor John W. Budd
Center for Human Resources and Labor Studies
Carlson School of Management
UNIVERSITY OF MINNESOTA
EU ruling on commission pay prompts warning

By Brian Groom, Business and Employment Editor

Companies face millions of pounds in compensation bills – and some could be put out of business – because of a ruling by EU judges that workers should be paid commission even when on holiday, the CBI employers’ group has warned.

The New York Times

The Number That Many French Businesses Fear

By LIZ ALDERMAN

Rights Group Files Complaint Over EU-Vietnam Trade Talks

ÉCUEILLES, France – Philippe Plantier, a seasoned French mountaineer, was rappelling structures. He was struck: He was pregnant.

Starting Provence’s largest nuclear cooling system, the structures.

There are few heights to which Mr. Plantier could ascend. But there is one number he refuses to go above: 49.

When his employee head count reached that figure, he stopped hiring.

Taking on a 50th person would unleash nearly three dozen French labor regulations that he estimates would cause operating costs for his company.

Paid Sick Leave Laws Generate Concern, but Not Much Pain

By ROBB MANDELBAUM

The Sydney Morning Herald

Jury out on Fair Work System: Employers

By Kevin Murphy and Robert Toczko

Flexible working extended to all UK employees

The right to request flexible working will be extended to all UK employees from Monday, which ministers argue will help working families and boost economic growth.

Some business leaders have warned, however, that the change could cause “significant confusion”, amid conflicting
Introduction

But frequently missing from policy debates and proposals is a conceptual basis for understanding alternative perspectives on government regulation of the employment relationship, and for designing effective laws and public policies.
Introduction

• Frequent focus on processes and policies, not objectives
  • Law students are trained in the letter of the law and human resources students are trained in its application
  • Neither group is educated about the fundamental purposes of workplace law and public policy
• Neoliberal market ideology emphasizes markets and economic objectives and obscures alternatives
• Thus, a climate of...
  • *Invisible hands*—lack of attention to explicit models of the employment relationship
  • *Invisible objectives*—lack of attention to explicit objectives of the employment relationship
Proposition

• The rationale for government regulation of any market-based activity is rooted in the intersection of the objectives and operation of that activity

• Econ 101: government regulation is (sometimes) warranted to correct market failures
  • This assumes specific objectives (efficient allocation of resources) and operation (self-interested, rational agents in competitive markets)

• Different objectives (e.g., a fair allocation of resources) or operating features (e.g., individuals seeking psychological fulfillment) can yield very different prescriptions for government regulation
Overview

- Need explicit recognition of:
  - **Objectives** for economic activity and the employment relationship
  - **Models** of how the economy and the employment relationship work
- **Usefulness**
  - Analytical applications
    - Analyze, understand, compare
  - Normative applications
    - Critique, reform

Starts with conceptual and theoretical explicitness = recognition of alternative frames of reference
Objectives of the Employment Relationship

- **Efficiency**
  - Economic performance—the effective use of scarce resources (competitiveness, productivity, quality, economic prosperity)

- **Equity**
  - Fair employment standards for outcomes and treatment (justice, security, and nondiscrimination)

- **Voice**
  - Meaningful input into decisions (autonomy, free speech, industrial democracy)

Alternative Approaches

- Voice
- Efficiency
- Equity
Workplace Governance

- Voice
- Union and Nonunion Representation and Participation
- Worker Control
- Legal Regulation
- Efficiency
- HRM
- Equity

Free Markets
Governing the Global Workplace

- Efficiency
- Voice
- Equity

- International Labor Standards
- Corporate Codes of Conduct
- Free Trade
- Representation and Solidarity (e.g., European Works Councils)
Comparative IR Systems

Voice

Co-determination
Enterprise
Unionism

Social Partnership

Strong Voluntarism

Sectoral Bargaining
Award System

New Deal System

Weak Voluntarism

Efficiency

Equity
Q: But why different emphases in objectives and policy approaches?

A: Alternative models of the employment relationship (at least partly)
Models of the Employment Relationship

• How do we think the employment relationship works? Also the economic system

• How to model…
  • Employees?
  • Employers?
  • States?
  • Markets?

  The interaction between all of these?

Four Models
• *Egoist* (neoclassical economics)
• *Unitarist* (progressive HRM)
• *Pluralist* (pluralist IR)
• *Critical* (radical IR)
Is labor a commodity?

- No
- Yes

Are employers and employees equals in self-regulating, competitive labor markets?

- Yes
- No

Egoist Model: employment relationship as mutually-advantageous economic transaction

View of employment relationship interests and conflict

- Unitarist Conflict
  - Unitarist Model: ER as long-term partnership between employers and individual employees with a unity of interests

- Pluralist Conflict
  - Pluralist Model: ER as a bargain between stakeholders with a plurality of interests and unequal barg. power

- Class Conflict
  - Critical Model: ER as an unequal power relation embedded in complex socio-political inequalities
Frames of Reference

- The four models are the key HRIR frames of reference
  - Egoist (neoclassical economics)
  - Unitarist (progressive HRM)
  - Pluralist (pluralist IR)
  - Critical (radical IR)
- These theories act as frames of reference which guide the perceptions, evaluations, and actions of scholars, policymakers, advocates, and others
  - Underlie support for and opposition to different regulatory models
# Views on Work-Related Public Policies

<table>
<thead>
<tr>
<th>Egoist</th>
<th><em>Distortionary</em>: Fix market failures in the rare instances when this is not harmful; deregulation preferred</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unitarist</td>
<td><em>Largely Unnecessary</em>: Effective management policies are best, though perhaps some minimal standards are useful to promote cooperation and avoid undercutting</td>
</tr>
<tr>
<td>Pluralist</td>
<td><em>Important</em>: Necessary to counter corporate bargaining power and to balance efficiency, equity, and voice in democratic, capitalist societies</td>
</tr>
<tr>
<td>Critical</td>
<td><em>Inadequate</em>: Can perhaps take the harshest edge off of capitalism, but with systemic imbalances, need greater socio-political changes for true reform</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Views on International Workplace Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Egoist</strong></td>
</tr>
<tr>
<td>Free trade is optimal; international labor standards are harmful trade barriers</td>
</tr>
<tr>
<td><strong>Unitarist</strong></td>
</tr>
<tr>
<td>Voluntary, self-monitored codes of conduct can effectively promote international labor standards by aligning employer-employee interests</td>
</tr>
<tr>
<td><strong>Pluralist</strong></td>
</tr>
<tr>
<td>Fair trade (via enforceable international labor standards) and transnational unions are necessary for redressing global imbalances in bargaining power</td>
</tr>
<tr>
<td><strong>Critical</strong></td>
</tr>
<tr>
<td>International working class solidarity and deep structural reforms are needed to prevent labor exploitation by globally-mobile capital</td>
</tr>
</tbody>
</table>

A Frames of Reference Approach

• Recognizing the key frames of reference helps us...
  • Achieve a deeper **conceptual** understanding of employment practices, regulatory approaches, and institutions
  • Improve dialogue across disciplines and schools of thought
  • Achieve a deeper **practical** understanding of employment practices and institutions
Confused Foundations of U.S.
Work-Related Public Policies

• The U.S. system of labor and employment law is a mess
  • Areas of policy often undermine each other
    • Individually-focused employment laws undermine the collective-focused labor laws
    • Labor law emphasizes self-determination; employment law legislates uniform standards
  • No one is satisfied with the current system
• Why? Three different intellectual foundations for U.S. work-related public policies
  • Policymakers in different eras embraced distinct frames of reference
Confused Foundations of U.S. Work-Related Public Policies

- Four eras of U.S. workplace governance
  - Pre-1930s: “old deal” emphasizing free markets
  - 1930s: New Deal featuring government promotion of labor unions, social insurance programs, and minimum labor standards
  - Mid-century: rise of nonunion human resource management policies and employment law focused on individual rights
  - New century: Global era with a renewed focus on free markets and free trade
Confused Foundations of U.S. Work-Related Public Policies

• Four eras of U.S. workplace governance
  • Pre-1930s: “old deal” emphasizing free markets
  • 1930s: New Deal featuring government promotion
  • Mid-century: rise of nonunion human resource management policies and employment law focused on individual rights
  • New century: Global era with a renewed focus on free markets and free trade

Egoist model—markets and personal responsibility
  • Employment-at-will; COBRA; WARN; NAFTA; Pension Protection Act of 2006
Confused Foundations of U.S. Work-Related Public Policies

- Four eras of U.S. workplace governance
  - Unitarist model—nondiscrimination and disclosure requirements for employer-controlled terms and conditions of employment
    - Civil Rights Acts; ERISA; tax incentives
  - Mid-century: rise of nonunion human resource management policies and employment law focused on individual rights
    - New century: Global era with a renewed focus on free markets and free trade
Confused Foundations of U.S. Work-Related Public Policies

• Four eras of U.S. workplace governance
  • Pre-1930s: “old deal” emphasizing free markets
  • 1930s: New Deal featuring government promotion of labor unions, social insurance programs, and minimum labor standards

Pluralist model—minimum standards and balancing power between employers and employees
  • Wagner Act (rights to unionize); Fair Labor Standards Act (minimum wages); Social Security Act (old-age pensions and unemployment insurance)
Confused Foundations of U.S. Work-Related Public Policies

• So? The U.S. system of labor and employment law is a mess!
  • Areas of policy often undermine each other
  • No one is satisfied with the current system
• Why? Three different intellectual foundations for U.S. work-related public policies
  • Need to explicitly recognize HRIR frames of reference to understand that the overall system is based on a confused set of contradictory assumptions
  • And to generate reforms that are internally consistent in multi-layered governance systems
What About Work?

- Claim: work itself has been overlooked in thinking about employment regulation
  - Work remains in the “hidden abode of production”
  - Not working conditions, occupations, job quality, etc.
  - Rather, the meaning(s) of work

- Work as...
  1. a Curse
  2. Disutility
  3. a Commodity
  4. Personal Fulfillment
  5. Caring for Others
  6. Identity
  7. Occupational Citizenship
<table>
<thead>
<tr>
<th>Work as…</th>
<th>Definition</th>
<th>Implications for Employment Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Curse</td>
<td>An unquestioned burden necessary for human survival or maintenance of the social order.</td>
<td>The nature of work is beyond our control. Acceptance of existing forms of work rather than regulation is warranted.</td>
</tr>
<tr>
<td>Disutility</td>
<td>A lousy activity tolerated to obtain goods and services that provide pleasure.</td>
<td>Work is expected to be lousy so minimal perceived need for regulation. Income, not jobs, is important so income support policies are adequate substitutes for employment regulation.</td>
</tr>
<tr>
<td>A Commodity</td>
<td>An abstract quantity of productive effort that has tradable economic value.</td>
<td>Efficient allocation of labor is foremost concern. Policies that affect labor mobility are key. Ignores unpaid and other forms of non-commoditized work.</td>
</tr>
</tbody>
</table>
# The Implications of Meanings of Work

<table>
<thead>
<tr>
<th>Work as…</th>
<th>Definition</th>
<th>Implications for Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Fulfillment</td>
<td>Physical and psychological functioning that (ideally) satisfies individual needs.</td>
<td>Work should be psychologically rewarding, but individual focus of this conceptualization results in an individual rather than collective emphasis in employment regulation.</td>
</tr>
<tr>
<td>Caring For Others</td>
<td>The physical, cognitive, and emotional effort required to attend to and maintain others.</td>
<td>Recognizes non-commoditized forms of caring for others as work, and draws attention to the need to include these forms of work in conversations about employment regulation.</td>
</tr>
<tr>
<td>Identity</td>
<td>A method for understanding who you are and where you stand in the social structure.</td>
<td>Sees the deep importance of work for individuals, and thereby provides a basis for substantive employment regulation.</td>
</tr>
<tr>
<td>Occupational Citizenship</td>
<td>An activity pursued by human members of a community entitled to certain rights.</td>
<td>Employment regulation can be a key method for supporting the achievement of citizenship rights.</td>
</tr>
</tbody>
</table>

---

**The Implications of Meanings of Work**

- **Personal Fulfillment**: Physical and psychological functioning that (ideally) satisfies individual needs. Work should be psychologically rewarding, but individual focus of this conceptualization results in an individual rather than collective emphasis in employment regulation.
- **Caring For Others**: The physical, cognitive, and emotional effort required to attend to and maintain others. Recognizes non-commoditized forms of caring for others as work, and draws attention to the need to include these forms of work in conversations about employment regulation.
- **Identity**: A method for understanding who you are and where you stand in the social structure. Sees the deep importance of work for individuals, and thereby provides a basis for substantive employment regulation.
- **Occupational Citizenship**: An activity pursued by human members of a community entitled to certain rights. Employment regulation can be a key method for supporting the achievement of citizenship rights.
Frames of Reference, Revisited

Egoist frame
- Embrace of free markets
- Lousy, commodified views of work
- Market-based view of efficiency, equity, and voice

Unitarist frame
- Embrace of individual employee-employer alignment
- Work as personal fulfillment and (benign?) identity
- Individual, mutually-supportive view of efficiency, equity, and voice

Pluralist frame
- Markets as imperfect; some conflicts of interest so need regulation
- Work as occupational citizenship
- Citizenship view of efficiency, equity, and voice

Critical frame
- Markets as one element of socio-political inequalities; deep conflicts of interest
- Work as deeply-human identity, citizenship, caring for others
- Prioritization of equity, and voice
Conclusions

• Work-related public policies, including employment and labor laws, need to be guided by an analytical framework that includes explicit objectives for the employment relationship, an explicit model of how the employment relationship works, and explicit meaning(s) of work.

• That is, we need to recognize the competing frames of reference that reflect the assumptions and values regarding the objectives and operation of the employment relationship and the nature of work.

• This approach is necessary for understanding models of national and international regulation, evaluating the need for reform, and crafting new policies.
Conclusion

A frames of reference approach to the regulation of work and employment provides a needed lens for understanding alternative perspectives on national and international regulatory regimes and for designing effective laws and public policies.
Further Reading


• John W. Budd and Devasheesh Bhave, “Values, Ideologies, and Frames of Reference in Industrial Relations,” in *Sage Handbook of Industrial Relations* (Sage, 2008).

• John W. Budd and Devasheesh Bhave, “The Employment Relationship,” in *Sage Handbook of Human Resource Management* (Sage, 2010).

• John W. Budd and Stefan Zagelmeyer, “Public Policy and Employee Participation,” in *The Oxford Handbook of Participation in Organizations* (Oxford University Press, 2010).

Contact Information

John W. Budd
Department of Work and Organizations
Center for Human Resources and Labor Studies
3-300 Carlson School of Management
University of Minnesota
321 19th Avenue South
Minneapolis, Minnesota 55455-0438
jbudd@umn.edu
Blog: http://whitherwork.blogspot.com/
Twitter: @JohnWBudd
Is labor a commodity?

No  |  Yes

Are employers and employees equals in self-regulating, competitive labor markets?

Yes  |  No

What *should* govern the workplace?

---

**School**
Neoclassical Economics
Competitive Markets

**View of employment relationship conflict**

**Unitarist Conflict**
School
Human Resource Mgmt
Governance Mechanism
Human Resource Mgmt

**Pluralist Conflict**
School
Industrial Relations
Governance Mechanisms
Government Regulation
Collective Bargaining

**Class Conflict**
School
Critical IR
Governance Mechanism
Worker Control or Socialism
The Egoist
Employment Relationship

ER Objectives
Efficiency is paramount. Equity is market transactions being fair. Voice is the ability to freely initiate and quit transactions.

Compatibility of Objectives
Employers and employees have self-interest. Exchanges are consummated when self-interests align.

Structural Context
Competitive labor markets. Labor as a commodity.

The Employment Relationship
A mutually-advantageous trade in a free market by self-interested economic agents.
The Unitarist Employment Relationship

ER Objectives
Efficiency is very important. Equity and voice are necessary for psychological satisfaction and individual productivity.

Compatibility of Objectives
Employers and employees have shared interests.

Structural Context
Imperfect labor markets. Labor as psychological beings.

The Employment Relationship
A long-term partnership between employees and employers who share a unity of interests.
The Pluralist Employment Relationship

ER Objectives
Efficiency, equity, and voice are all important. Equity and voice are necessary for human dignity and freedom.

Compatibility of Objectives
Employers and employees have some shared interests and some conflicting interests.

Structural Context
Imperfect labor markets. Labor as economic and psychological beings and democratic citizens.

The Employment Relationship
A bargain between stakeholders with pluralistic economic interests and unequal bargaining power.
The Critical Employment Relationship

ER Objectives
Equity and voice are paramount. Equity and voice are necessary for human dignity and freedom.

Compatibility of Objectives
Employers and employees have antagonistic conflicts of interest.

Structural Context
Employment inequalities embedded in pervasive inequalities throughout society. Labor as economic and psychological beings and democratic citizens.

The Employment Relationship
An unequal power relation embedded in complex socio-politico-economic inequalities, and characterized by struggles for control and accommodation.
The U.S. Scorecard for Work-Related Public Policies

- **Strong**
  - Mobile, Pro-Market Ethos; Few Hiring and Firing Restrictions; Strong Property Rights

- **Weak**
  - Weak Unions; Weak Protections for Individual Voice; Shareholders Dominate Decision-Making
  - Weak Mandated Standards and Social Insurance; Tolerance of High Inequality

---

**Voice**

- Strong
- Weak

---

**Efficiency**

- Strong
- Weak

---

**Equity**

- Strong
- Weak
Working Out a Balance

Efficiency, Equity, and Voice
International labor standards
Good cause discharge protections with streamlined regulatory enforcement

Efficiency
Employee free speech
Employee representation on boards of directors

Voice
Employee free speech
Employee representation on boards of directors

Equity
Increased minimum wages and EITC
CEO pay tax deductions tied to avg worker pay
Paid personal leave
Medical standards for disability protections
Greater inclusion of contingent workers

Equity and Voice
Mandatory overtime ban
Health and safety committees
Strengthened protections for workers forming unions, negotiating contracts, and striking
Right to request a changed work schedule
Disclosure of employment terms and monitoring

Efficiency and Voice
Works councils