

# **The state, public policy and the ongoing ‘renewal’ of HRM and Worker Rights<sup>1</sup>**

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## **1) Introduction**

The strategy and practice of HRM management is intricately shaped by the role of the state and its economic, legislative and administrative relationships with capital and labour. The state plays a variety of roles and has a range of apparatus that sustain and develop, in one form or another, economic organizations. More generally, the role of the state is central to the development of the economy and the maintenance of socio-economic systems. The academic subject of Human Resource Management has over time attempted to therefore engage with the role of the state and of regulation. However it does this without really conceptualizing this external factor and its development, even in the current context of change and economic flux: the state is at best a contextual factor. Questions of legal regulation, public sector employment, and publically provided education and training are often discussed but there are problems and limitations with many approaches. Questions of participation and training, for example, are not always systematically discussed in relation to the role external factors may play. HRM theory is more concerned with the internal, the firm specific in terms of governance and process – the external is mainly seen as a secondary plain of analysis. In some cases this leads to a tendency to ignore social, economic and political context in a whole range of national specific studies of HRM (see Rodriguez Ruiz and Martinez Lucio, 2010). The ‘external’ regulatory environment in the case of the state is not itself the subject of a primary level of analysis within HRM – except in aspects such as industrial relations although this paper is mainly focused on HRM generally speaking.

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HRM therefore focuses on the issues of external and internal fit that are concerned with the relationships between strategy and practices, but the influence of national systems is rarely present. The multiple roles that the state can play and how they are changing are relatively under-developed. Hence, it is important that we seek to explore the dynamics of state policy, regulation and activity in relation to the implementation and sustainability of human resource management strategy and practice. At one level, when the role of the state has been discussed, it is in general terms – as in the role of the law, economic intervention, and public sector employment. At another level, it could be argued that the role of the state, particularly in terms of its changing dynamics in relation to HRM, remains under-theorised and under-explored – beyond analysis of national level legislation or employment in the public sector. Yet, the role of the state at local, national and supra-national level is changing. Key questions remain, therefore, over the impact of globalisation and the drivers and consequences of ‘state retreat’, ‘state renewal’ and ‘state re-regulation’. The paper seeks to illustrate the way in which the state plays a series of new and interactive roles within the development of management strategies and HRM more generally. It attempts to identify the way it steers and maps desired management practices. This represents a more micro-oriented and at times ideologically focused view of organizational practices. In terms of management development and strategy the state continues to guide and forge directions around market and neo-liberal methods of organizational practice given that these do not in themselves embed themselves. In terms of worker rights, as the state withdraws from economic and social roles it has to create methods for policing and ensuring the implementation and risk management of the series of rights that may remain or are developed in a more ‘individualist’ manner.

## **2) The Gaps in the Study of the State and HRM**

Most of the discussion on HRM rarely focuses on the way models and practices are externally influenced, legitimated and developed. In many of the more managerialist perspectives the external context of regulation and the state are rarely discussed. Even if highly referenced interventions on the development of organizational practices are common, such as DiMaggio and Powell (1984) with their discussions in terms of mimetic, coercive and normative of isomorphism, rarely is the state integrated and focused on as a subject which may actually establish benchmarks and examples for employers and worker representatives, standards and targets for HRM development, and financial pressures and even repressive modes (see Stuart and Martinez Lucio, 2008). In terms of traditional HRM schools of thought: the Michigan school rarely discusses this factor and the Harvard school lines it up as one of various external environmental factors, although the latter has a greater tradition of seeing the state as an influence on HRM policy (Beer et al, 1984).

The consequences of the general absence of any discussion about the state are varied. The process of change and remapping the future of management and employment relations does not appear to have social and political dimensions. Firstly, it is seen as the outcome of a series of ‘rational’ economic choices and decisions. The reality, processes

and politics of HRM become downplayed. Secondly, the ways in which models of HRM emerge ignore state roles: for example, the emergence of HRM in the 1980s witnessed the role of a range of state departments in the USA and UK that disseminated models of management through various conferences, supported travel to such new managerial interest points such as Japan in the 1980s and early 1990s, facilitated experimentation with new models and practices, and confronted traditional industrial relations practices and trade union roles are not part of the HRM discussion although they are common in debates in public policy and regional studies. Thirdly, it means that differences on the form and direction are not always acknowledged such that HRM developments are seen as natural, inevitable and steering towards best practice (see Stewart, 1996 for a related discussion on the debate on the broader origins and politics of the Japanese management model in the 1990s). It can lead to ignoring how HRM 'improves' and 'innovates' – how it is not solely the sum of practices emerging from a cluster of firms who are the most 'successful' but a broader policy and organizationally related process as well. Also it means we run the risk of ignoring political debates on what it is meant by organizational 'improvement'. Consequently, we end up with a naturalist and teleological view of how HRM develops if we do not account for the state as a major actor and structure – that is to say if we do not account for the political. Finally, it also means that we ignore that the state and HRM are not two simple elements across some binary with each at either end. The emergence of HRM is itself a strategy or set of practices which in part emerged in the wake of the decline of state roles in the 1980s and 1990s due to neo-liberal and marketising strategies, and which in turn attempted to internalise regulation and governance within the firm and develop more individualized forms of participation and labour management (Martinez Lucio and Simpson, 1992; Bacon and Storey, 1995). The state is therefore important in attempting to condition such developments by interacting with employers in more complex ways in order to influence such corporatized views of HRM which are premised on avoiding regulation.

### **3) The Study of the State in Industrial Relations**

The role of the state relates to the subject of order and sustainability in terms of social and economic system: the manner in which it regulates and sustains the stability and development of social systems. In order to understand the state we need appreciate different perspectives that exist, the different roles the state plays and how these are coordinated or not, the specific roles it plays in relation to questions of work and employment, the way these roles change and evolve especially in the context of a neo-liberal and marketised context where the state's direct presence is questioned, and finally we need to understand the new ways the state intervenes in the more global and marketised environment through new forms of regulation and 'governance' based approaches.

It is in relation to the state's broader role and developments that various discussions emerge. The state's role and extent of intervention can be seen in terms of two dimensions (Dunleavy and O'Leary 1987: 7-9). The first dimension focuses on the role of the state in terms of law, order, defence and maintaining traditional and established

practices. This dimension of activities is configured by a division – broadly speaking – in terms of conservative and traditionalist perspectives, which prefer intervention in order to sustain the established social fabric and hierarchies of a society. Then there are those of a classically liberal nature that prefer less state intervention and more openness and innovation within a society. This has normally been the basis of the classical pre-20<sup>th</sup> century debates and differences of the state – in very broad terms. However during the 20<sup>th</sup> century in the context of Europe and the USA, for example, the role of the state has expanded across another set of economic and social dimensions in terms of organizing production, social welfare and the distribution of economic assets and income. Here there are two further perspectives: market and liberal capitalist oriented perspectives that favour less economic and social intervention, whilst left leaning/collective perspectives favour more intervention to correct the social anomalies, inequities and contradictions of capitalist societies. This approach, like all approaches, generalizes: but it assists us in understanding that the state and intervention develops across various dimensions and through a competing set of views.

Jessop (1982) argues that we need to view the state as intervening in terms of representation (molding and configuring types of popular participation or not) and forms of economic and social intervention. This multi-dimensional approach allows us to understand the various ways the state intervenes and how interventionism may be ‘higher’ or ‘lower’ across dimensions such as economic demand management and direct state subsidies, for example, or supply side orientations in terms of the quality and quantity of labour supply through training and education (Jessop, 2002). This is important as we need to avoid the fallacy that ‘market’ leaning approaches are not interventionist in terms of the nature of work and the economy more generally. Much depends on the dimension of work and employment, e.g. skills, social order at work, worker representation, dialogue with social organizations such as trade unions, direct employment, the manner in which the rules of work are established and others.

Whilst some are concerned with the failure of work and employment related scholars to take on board the state in a more systematic manner (Kelly, 1998), within the area of industrial relations (why the use of capitals for industrial relations?) there have been a range of studies which point to the role of the state at various levels. In the first instance, interventions discuss the alignment of the state in relation to the world of work. Pluralist traditions tend to see the state as an external agent, balancing the interests of workers and capitalist (employees and employers for example) creating a body of formal rules and institutions that help correct imbalances in terms of power resources (Clegg, 1976; Beer et al, 1984). Conflict is resolved and managed through forms of direct intervention in terms of legal intervention, conciliatory agencies and relations with ‘social partners’ such as union and employer organizations. Such a tradition tends to be focused in European, Australasian and North American contexts where the state is relatively autonomous (relatively more independent of capitalist and dominant interests) in its operations, but this is also increasingly the case in parts of Latin America and the Far East where such roles are on occasions common. More critical approaches see the state as an active agent, that represents the interests of specific dominant groups or classes and acts on their behalf in maintaining the interests of the dominant hierarchy (see Jessop 1990) – though even

here the debate can be more complex. These approaches view the role of the state as not solely consisting of the consensual apparatus in terms of conciliation and arbitration institutions – which are seen as less autonomous of elite interests compared to the pluralist perspective – but also of coercive mechanisms such as the use of policing in conflicts and state intelligence services (see Darlington and Lyddon, 2004 for a discussion of the United Kingdom in the 1970s). Hence, the state itself in relation work and employment related issues vary according to different points of views. What does appear to be a point of agreement, increasingly, is that the state consists of various apparatus, institutions and roles in the way it pursues its objectives in terms of work and employment related issues. Hyman (2009: 264) has synthesized various views about this. The state is an employer, a key factor in developing rules for a range of actors, develops individual employment rights, develops macro-economic management and supply-side labour policies, creates welfare rights and services, and contributes to the broader concept of citizenship.

We can view this diverse role in the following historical manner that allows us to understand the changes recently taking place (Stuart and Martinez Lucio, 2008). In historic terms, the state played a central role in assisting the development of a consensual and negotiated post-war social democratic settlement. Firstly, the state's social and welfare-based intervention, through the indirect wage – a process Esping-Anderson (1990) refers to as de-commodification - eased the pressure on the direct wage in terms of collective bargaining processes. This was essential for national political bargaining at the level of the state, as well as collective bargaining at the level of the sector and firm. The second dimension of the state relates to the role of political exchange or neo-corporatist processes. Whilst levels of neo-corporatist intermediation have varied, they have remained a salient feature of contemporary industrial relations systems (Berger and Compston, 2000). Recently since the 1990s, there may have been a move in the European context from harder forms of government regulation through negotiation to softer forms of governance based on the diffusion of good practice; but the role of the state remains important in terms of its scale, the manner of its interventions and its central leadership role. Thirdly, the state's role as a legislator developed systematically during the 20<sup>th</sup> Century, evident in the framework of rights and obligations that exist within the sphere of employment relations of most economically advanced systems. Its role as a legislator of employment rights and obligations remains important, despite the current emphasis on individual employee rights. Finally, and of central significance for this article, the state is also an employer.

One needs to see how these roles and institutions evolve within different moments of capitalist and economic development more generally. It is important within the study of work and employment to understand that during the age of organized capitalism and modern welfare state approaches, in developed countries in particular since the end of WWII, the state had been an active player in employment, investment and social terms. The state has also been central to developments in forms of national and macro level institutional dialogues between capital and labour - which some would label as liberal or societal corporatism (Lehmbruch 1984, Schmitter 1979 respectively). These are seen have formed part of highly regulated approaches to employment and work related issues -

albeit to varying degrees within different contexts. The 1980s brought forth a new wave of changes which emphasized a more market oriented approach with a less significant role for the state. For some this corresponded with the emergence of greater employer and management discretion in the form of more market facing human resource management strategies (Legge, 1994). Yet, whilst the temptation was to write off the state as a player in relation to industrial relations and HRM, the reality was that new forms of state intervention emerged as discuss below in detail. Not only did the state in some cases politically have to confront the previous mode of tight regulation and state intervention through legal and even coercive means (Gamble, 1988) it also had to facilitate a transition to a new form of management which could, to an extent, be considered to be more individualized and marketised in its approach (see Greenwood and Stuart, 2005).

If anything, the state has had to play new roles in sustaining the development of new management-led systems of employment such as new modes of participation in the workplace, preparing the workforce for a new market facing context in terms of flexibility and adaptability, creating an environment which is supportive of entrepreneurial ideas and innovation, and of creating best practice and benchmarks in terms of HRM. At the same time – and here there is a curious irony – the state has to also maintain a system of social rights and framework of justice which maintains a semblance of fairness within the employment relation to some degree or another. The state plays a role even in a context where there is a formal move or attempted move from a more direct state approach (see Martinez Lucio and MacKenzie, 2004, 2005 for a discussion). The state has moved to a whole new set of roles – and not abstained from questions of management and labour. In terms of the supply side this is something which has become quite prevalent in the way the state attempts to shape training strategies and new forms of learning in relation to the changing demands of the new workplace and demands for a ‘flexible workforce’ (see Stuart, 2007). It is for this reason we need to see the state as not abstaining from economic and social intervention but of actively creating new forms and approaches to questions of employment and HRM. Models of management and forms of employment do not automatically materialize but are in part politically constructed, strategically disseminated and ideologically supported. Be it in the emergence of new forms of partnership in the United Kingdom or the emergence of ‘Western’ modes of management in China, the state plays a curious set of roles.

#### **4) Understanding Changing State Roles**

It is clear the state plays a role in terms of a variety of new forms of intervention. There still remain more traditional forms of intervention that dominate HRM and IR. However this paper’s objective is to highlight the new forms of developments that exist: the role of the state in an ever changing environment: the ways the state interacts with HRM process and practices is linked to a new supply-side logic and development in terms of regulation. Many tend to reference questions of learning and training - the focus of the supply side state - as the basis of a new state role in relation to HRM (see Stuart, 2007). However, alongside this role – which has always been there to some degree or another –

comes a new set of state activities aimed at remaking the ideological and practical basis of employment and its management (Stuart and Martinez Lucio, 2008).

Firstly, the state has invested in *networking and the development of new forms of knowledge sharing and collaboration* between managers and between unions, and between both. This allows the state to disseminate practices and to create new forms of organizational collaboration. This mirrors literature within political studies in terms of the role of the state in generating new forms of participation within regulation based on a vision and practice of 'partnership' and 'governance': this being based on a broadening of the role of the governance and the role of citizenship in pursuing different institutional arrangements (Chambers and Kopstein, 2006). Mansbridge's (2003) work on election related issues is relevant for a plural approach to citizenship and participation, which seeks to underpin a view of representative stakeholders. The centrality of linking to the external and civil society is therefore important (Saward, 414). This 'governance' view of the state is based on the view of joint working across the public, private and social sectors (Kooiman, 2003). There are critiques of such approaches (see Martinez Lucio and MacKenzie, 2004).

Secondly, there is the role of the state in *developing benchmarks and standards* through its conciliation bodies and learning agencies. The state establishes forums, research, consultancy and communications aimed at prompting change and new forms of HRM. In fact many of these are concerned as much with the internal development of HRM within the state as they are about the external development of HRM practices in the private sector (see Stuart and Martinez Lucio, 2008).

Thirdly, the state also *sets targets and objectives* - political mission statements are developed alongside numerical targets such as the employment of minority groups or satisfaction rates. There is a curious return to simpler forms of regulation that do not require extensive public investment but do put the onus of responsibility for change on non-state institutions and holds them to account - in theory through an array of new state agencies. In effect, this coercive feature of control underpins the more mimetic and normative approaches (Cooke, 2011). This dovetails with the development in Corporate Social Responsibility and the role of a new interest in business ethics within the state. However, the role of targets and objectives may be a way of enticing social change due to the failure of more direct forms of intervention in social terms and a growing antipathy within neo-liberal politics to social intervention and justice through welfare state strategies.

In effect, the state provides support for actors to assimilate some of its roles and to work in partnership with it in a new strategic manner (Kooimans, 2003). Opinions vary as to the efficacy and consistency of such developments, but they are nevertheless a focus of discussion within industrial relations, particularly, as Van der Meer et al (2005) explain, in terms of a new type of policy and state approach: 'steering'. The state does not so much lead now or direct but 'steer'. It does this not just in terms of the use of procedure; it also does this in terms of steering by objectives (adaptive governance) and by comparison (open coordination) - see Stuart and Martinez Lucio (2007). These

developments focus on the macro aspects of the state. This has emerged in a context of a diminishing capacity for state intervention and macro-corporatist co-ordination (van de Meer et al, 2005: 354-5). There is in effect a new form of governance emerging that *prompts*, establishes *criteria* and *compares* in relation to what it sees as good practice in areas such as learning or co-operation strategies. The state therefore renews its position within a more market driven economy (Visser, 1998) by adopting new roles that aim to allow its intervention to be shared, to allow knowledge to be imparted through references to good practice, and to involve stakeholders in novel ways. In the remainder of the article, we explore this with specific reference to the changing role of state arbitration.

## **5) Challenges and Ironies in the New State Roles**

The role of the state in terms of HRM is not solely related to the modern state as in its forms of macro-economic management, the role of the public sector, the position of labour law, and industrial relations policy (Smith and Morton, 2006): we also need to comprehend new institutional roles and new approaches to the regulation of the employment relations and its management. The dissemination of new ways of working and managing – along with the creation of new approaches to HRM more generally – require a variety of processes and state-oriented agencies actors in terms of the dissemination of ideas, the investment in organizational learning and new forms of human resource development. However, there are challenges can be understood in terms of problems related to co-ordination, resourcing, monitoring, and coercion.

Questions of *coordination* are a key theme. Indirect regulation requires a broad range of networks and complex forms of dissemination: these have to be coordinated and developed in a consistent and resourced manner (Stuart and Martinez Lucio, 2008). There is increasing concern with the failure of governments and state agencies to underpin and systematically support many new initiatives. Much rests on other regulatory actors (see MacKenzie and Martinez Lucio, 2005) and how they develop the capacity and strategy necessary to play new roles within a more complex web of regulation and rule formation. Within debates on new forms of regulation there is concern with new regulatory bodies and networks being ‘captured’ by those they are meant to be regulating (Majone, 1994). Dominant economic or political interests can still influence the manner in which state agencies such as regulatory bodies operate, and on whose behalf. Such bodies can become bureaucratically disconnected from their initial purpose.

In addition, many of these new state strategies in terms of indirect regulation or soft regulation occur at a time when the state is itself commercializing, fragmenting through outsourcing in terms of welfare provision, and developing a more neoliberal managerialist slant (see Smith and Morton, 2006). In fact they are developing since 2008 in a context of a *systematic reduction of state resourcing* in key areas of public policy intervention, especially in liberal market economies, This may mitigate against the development of a more coordinated and strategic approach to new forms of state policy.

Furthermore, new forms of individual rights and approaches to legal regulation have emerged as a key feature of new forms of state regulation (Howells, 2008): we may not



see an emphasis on collective rights and systems of representation in 'new' state strategies but a greater emphasis on individual rights. This varies according to the context, but individualization in employment relations and HRM - which was once viewed as a key challenge to collectivist frameworks (Purcell, 1993) - brings new forms of legislation and state activity in terms of auditing and regulating work especially in relation to equality, learning/training, and participation. The state can, ironically, be even more active at the level of the individual in a more focused and bureaucratic manner. This dovetails with the steadily growing interest within international regulatory bodies in terms of their *social and employment monitoring and auditing*.

Finally, there is the issue of *coercion*. There are noticeable gaps in how we view the state within management education and how we need to reconnect with debates in political science, sociology and the critical end of organizational theory. For example, the absence of a debate on coercive and undemocratic state behaviour in the realm of HRM means that we have not been able to develop a fuller picture of new forms of state roles. Yet, the labour process, industrial relations and organisational behaviour academic literatures has spent much time discussing surveillance at work, e.g. the use of technologies in tracking, surveying and disciplining workers (Sewell and Wilkinson, 1992). In many cases, surveillance has become a major feature of the control apparatus of the firm: raising a range of ethical issues and in turn debates in policy circles concerning privacy and data control. The state in various contexts has developed technologies and strategies which assist in such processes and in various cases a supportive legislative context. This raises serious ethical issues about the importance and autonomy of the private/individual sphere and individual rights in relation to work. The 'darker' side of HRM in terms of measurement and surveillance has been part of its legacy reaching back to the ideas of F. W Taylor and others related to the harder dimensions of management control.

In addition, within various national contexts the lack of a consistent and public democratic sphere – something which is the great unspoken in mainstream HRM and business school discussions – means that HRM strategies and management action are not subject to public and social scrutiny in a systematic manner. Collective rights remain restricted in many contexts, i.e. the absence of liberal democracy or social democratic traditions can and do configure the character of management in many regional and national spaces. Many national states in various developmental contexts may actively hinder the role of the public sphere, liberty in civil society and collective worker rights so as to assist the development of a more individualized and managerialized approach to HRM. This raises ethical issues in terms of how HRM – especially in American and Americanized circles - as an academic topic turns a blind eye to the impact of the broader political context in developed and developing countries. In fact, even in the USA there is a long legacy of anti-trade union activity which has at times been facilitated by the state. In the UK the state has also used coercive and covert mechanisms on many occasions, often to undermine trade unionism (Darlington and Lyddon, 2004). The relevance of this is that we need to not ignore the coercive role of the state and how it is being renewed in various ways within the context of a 'new HRM'. Not everything is about learning and mimicking – it is also about being coerced and forced.

HRM as an academic discipline and as a body of practices we must acknowledge that the firm and relevant stakeholders are the subject of a range of political and regulatory forces. The question of the social in HRM, the role of voice, and the issue of performance involve a range of actors and institutions and one of these is the state and its various apparatus. The development of HRM, in terms of various facets and phases, allows us to view the new roles of the state as outlined above – in terms of learning, benchmarking, dissemination and communication – as a ‘softer’ form of regulation. These can shape significant developments in HRM. However, more traditional and oblique traditions continue to exist and for this a new policy facing agenda is needed in terms of HRM if we are to deepen the study of HRM. The current economic context has brought the state and its role back into sharp focus both as the object of reform and the subject of reform. This requires a broader view of HRM and its regulatory dimensions.

Finally, the debate on the state needs to outline this organizational structure in more imaginative and broader ways. It is important that that we begin to acknowledge that political and public policy dimensions remain a central part of the development of management strategy, knowledge and practices within industrial relations and HRM. We need to complement the importance of the representative and legislative sphere with greater sensitivity to the interventionist sphere and the *focused* forms of state action. This is important to bring the study of management into a more objective and grounded social science approach, but is also important for realizing that the political remains a central feature of organizational learning and organizational change. For this task the role of industrial relations theory and the debates on new forms of regulation will remain important features of our work.

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