

Management  
prerogative has been  
notably constrained



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There has been distinguished growth in the degree and convolution of employment regulation since 1997. This has arisen due to labour governments's agenda to promote fairness at work. Further they have adopted European employment directives more liberally in the past few years.

The state over the past, has influenced the relationship between employer and employee through legislation, dispute resolution and by providing legitimate rules of engagement, shaping priorities and creating best practices in employee relations. State sometimes have taken role of Neo Corporatist or Bargained Corporatist creating tripartite arrangements through shared decision making. Sometimes state has dawned the role of Liberal Collectivism promoting trade Unions and in the past Market Individualism supporting management prerogative.

Since the Labour Government came into action in 1997, there have been many changes in UK employment law. These have been in enhanced maternity and paternity rights, the beginning of a National Minimum Wage and working Time regulation covering working time, rest breaks and the right to be paid annual leave. Further, the Discrimination law has also been made tighter, increasing protection from discrimination on the basis of age, religion, sexual orientation gender, race and disability.

State labor legislation has been very active in the area of minimum wage in last few years (Dickens, R. and Manning, A. 2003). The concept of Minimum wage is different from the lowest wage as it is determined by the forces of supply and demand in free market therefore it acts as a price floor. Many

countries like Australia, Canada, China, Belgium, France, Greece, Hungary, Ireland, Japan, Korea, the United States, Luxemburg, the Netherlands and the United Kingdom have law on minimum amount that can be paid per hour. Initially, Minimum wage laws were introduced in the United States in 1938, France in 1950 and in the United Kingdom in 1999. In the European Union, 18 member states have national minimum wages (Edwards, 2003)

In newer aspects, there have been court decisions on alcohol testing, genetic testing and parental leave. The law on genetic testing protects workers from employers who might use genetic test information to fire or discriminate against those employees. It affects all private employers with 15 or more employees; certain public sector employers, employment agencies and labor organizations.

Commons majority has exercised the authority and opportunity to implement its program for industrial relations and employment law since 1997. It took active measures for a drive to restore and widen trade union rights as a pre condition for protecting workers' interests within employment relationship and the labour market (Smith, P. and Morton, G. 2006).

The Government proposed to introduce regulations under the Employment Relations Act 1999 to outlaw the compilation, dissemination and use of trade union blacklists. The Government also proposed revamp of the directives of employment agencies and businesses in 1999. Section 3 of the Employment Relations Act 1999 was introduced with the aim of making blacklisting unlawful, should the practice, which is widely regarded as culpable and mismatched with good employment relations, ever re-surface. Since then it

has instigated the Employment agencies and Businesses regulations 2003. Most of the provisions of these regulations came into force on 6 April 2004 and the remaining provisions came into force on 6 July 2004 (Greenway, 2005). The Employment Agencies and Employment Businesses Regulations 2003 govern the behaviour of the private companies and establish a framework of minimum standards that both employers and employees are entitled to expect (Department for Business Enterprise and Regulatory Reform, 2004). These directives are proposed to promote flexibility and increase protection for workers who get recruited through employment agencies and businesses.

On the whole, the regulatory has proved to be beneficial for such workers but from the employment agencies' or businesses' point of view there are increased obligations. In addition to the Conduct legislations, businesses, employment agencies and employees should be aware of and act in accordance with other relevant regulation, statutory codes and official rules relating to equal opportunities, health, immigration, national minimum wage, working time schedules and membership into trade unions. Per the regulation, it is against the law to refuse to hire or to treat a work- seeker less fairly in terms of pay or conditions due to underlying conditions of their race, nationality, sex, sexual orientation, religion or disability. Generic obligations of employment agencies and businesses also increase to state clearly their terms and conditions, provide explanation to their workers, not to enter into any contracts on behalf of their workers without authority and even if they do so then notify the concerned workers of these terms at the earliest. Employment agencies are required to give details on the type of

work the agency will find or help in finding for the worker. Employers need to conduct background checks on workers before they join as an employee. Employment agencies face restrictions on “temp to perm” fees charged for workers.

Studies of Britain’s managers conducted over a period of 1980, 1990 and 2000 has showcased changes in managerial attitudes and behaviour in industrial relations over twenty years. There is a change in the relationship between macro-level political and economic movements of the period from 1980 up until the late 1990s. Major changes are seen in managerial attitudes, the impact of changes in power relations and the insulated effect of institutions. However, the most unexpected findings are the unpretentious rise of managerial unionism in the 1990s (Poole, M., Mansfield, R. Gould-Williams and Mendes, P. 2005). Employment Legislation has forced an assortment of conduct changes both on unions and management. However, it’s emphasis has diminished the power of the management as it becomes more regulated.

It does seem that management prerogative has been impacted by the endless stream of employment regulations. Trade unions and regulatory agencies have been natural allies as seen from the past wherein unions quickly seek assistance from regulatory authorities. Regulation has played a significant role in such union pressures to the management. Regulation has had a wider usage as a tactical weapon by unions (Kaufman, 1997). Unions, in the zeal to negotiate their terms sometimes may find disgruntled employee or former employee to file a lawsuit alleging a violation of regulatory law. Regulatory authorities can challenge and reduce the power of

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management if there is slight discrepancy found in the company's management style. A complaint to regulatory agency can cause a company management time, public embarrassment, potential fines and huge costs of compliance. Employers who have not been able to maintain unit labour costs will have suffered profit margin reductions or have had to pass cost increases on to the customer. There are definitely critical aspects to the relationship between the trade unions and management. If the management's strategy is minimalistic, especially in case of restructuring, then both quality and timeliness is considered inadequate. Trade unions in conjunction with European work councils are able to take on an effective negotiating role. The management cannot take decisions that might lead to workforce reductions, plant closures or lead to worsening of work conditions. It also has to make sure that collective bargaining agreements stay in place. Further, management has limited choice in transfer of workers as the workers can exercise their rights to remain and return. Trade Unions role is not only in identifying common interests and objectives but also in mobilization and the coordination of actions at the European level. Case in point, Ford and GME restructuring processes have shown that EWCs are accepted as negotiating partners not because management is progressive but because of the capability to mobilize employees and represent common interests at EU level which make it harder for management to challenge various plants and national unions against each other (Whittal, Knudsen and Huijgen 2007). It is assumed that organizations of labour have presented a problem to market economy as case workers take help of their organizations to negotiate better wages and conditions than market makes possible. In

pure market economy it might mean unemployment for the workers concerned.

The extent of regulation impacting on organization makes planning problematic even when there is growing need for it. This is the reason when sometimes already developed plans are rarely implemented (Beardwell and Claydon, 2007).

Employment legislation is proving to drown the small firms under tidal wave of employment legislation (Bridge, 2004). For instance when an employee at Innocent Drinks, a fresh fruit smoothie maker, becomes a parent, the company gives him a £2, 000 tax-free baby bonus to help meet the cost of cots and pushchairs, etc for the new arrival. While many small businesses, such as Innocent Drinks, have been more liberal than required towards workers' rights, the legislation tends to squeeze any goodwill out of the relationship between employer and employees.

In the past few years, small companies have been trying to come to terms with new and debatable employment legislation like disability rights, maternity leave, termination of employment procedures, minimum wage or 48-hour working-week directives. Workers and employers are confused regarding their legal entitlements and obligations. Infact recent report by the Organization for Economic Co-operation and Development on ageing and employment policies in the UK concluded that greater labor can be encouraged by more participation by older people, encouraging a flexible way of working environment and laws against age discrimination.

Legislation itself is not posing the problem to Companies' management but the fact that it is being introduced in such an incessant torrent. This has further led to fearful thoughts in small-business owners' mind about their ability to understand and implement the compliance changes accurately and on time. Stephen Alambritis, spokesman for the Federation of Small Businesses, proposed to the government to impose a freeze on new employment legislation for some years as its impact has caused many firms to start up as sole traders to avoid the headache of employing staff. He said, "The government has introduced 17 major pieces of new employment legislation since 1997, which is a lot for a small employer to take on board," (Bridge, 2004).

The impact of legislation injures small employers because owner or managers have to acquaint themselves with it along side managing a business's daily operation. In fact even sole traders need to spend approximately 30 hours a month to deal with red tapeism. This proves to be an opportunity cost to them as they end up spending this time understanding regulatory rules and filling forms. Employment legislation has caused bitterness among small business employees who do not qualify for the rights being introduced, such as those without children.

The conventional vigor of small firms has been their willingness to be adaptable and flexible to deal with individual worker problems. For instance if one takes paternity leave as a small business management is usually flexible to his needs. However, the small or large businesses for that matter do not wish to be tied down by state imposed rules if they do not fit their circumstances. For smaller firms, the impact of the changes in legislation <https://assignbuster.com/management-prerogative-has-been-notably-constrained/>



varies from no impact at all to an appalling impact appearing more like a lottery. As a result, the small businesses are reluctant to take on new employees. They no longer know which employee is likely to take them to a tribunal anymore.

There is so much ambiguity surrounding employment legislation that usually businesses are unsure about where the regulatory would strike and toss their business operations. Quantity, quality and timeliness of the information processes and consultation processes determine the fruitfulness of the relationship between management and trade unions.

With Globalization playing a major role in the way work is done today, interesting trends are noticed. The thought process of work force and management are going through a sea change. There are many jobs in private sector that do not require physical presence of the employee leading to increase in tele work . The management is now tilting towards results based approach than time based systems of work assessment. These changes are coming also as a result of increased number of women in labour force. Slow and steady redistribution of family tasks in a couple is leading to reconciled work life balance. Most of older generation believed in long term employment. However, today's workforce is increasingly open to working part time or in contingent employment or in multiple careers. This is exerting pressure on organizations in public and private sector alike to reconsider working hours (Gold, 2003).

One moving effect of the continuous rivulet of employment legislation has been the detrimental relationship between employer and employee.

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Organizations in their zeal to compete, tend to reduce costs and increase productivity with 'do more with less' mentality. Well known mantras like 'Reengineering', 'downsizing', 'lean production' provide the misapprehension of organizational efficiency to the outside world often putting greater pressure on remaining employees who are pressured to increase productivity.

The employment relationship has changed dramatically in recent decades. Employee relations was initially used as a replacement term for Industrial relations which generally meant relationship between employers and employees collectively. With changing times, there has been a considerable shift in employee relations from collective bargaining institutions to relationship with individual employees, reflecting reduction in industrial action since 1980 (Rollinson, D. and Dundon, T. (2007).

Management needs to design the organization in a way that allows employees to do quality work in healthy environment. Workers need to be provided with autonomy in performing their jobs, challenging assignments, constant social interaction, exert choice and feeling competent. This will lead to employee effectiveness. In fact management needs to take up 'transformational leadership' role wherein they increase the employees' awareness on company's vision and mission. When leaders act in a way that reflects idealized influence consistently, such actions become predictable to employees and they develop mutual trust and respect between management and employees. These positive psychological processes and mechanisms result in greater sense of mastery, job satisfaction, efficiency, proclivity and growth which are in fact a base for a healthy and positive work today.

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Organizations must focus on developing effective employee relations and involvement practices in order to succeed and effectively compete.

Employee engagement offers management a framework which indicates employee attitudes, behaviour and employment relationship. The informal environment of involvement and consultation seems to be more strong than collective institutions for negotiations. Companies are realizing it and giving due importance to human resource management despite the fact that there are high cost consideration on implementing HRM practices. The cost increases even more if they are being implemented across geographies (Legge, 2005).

With the changing times, there is a change in the mechanisms used for interaction between management and employees. There is increased interest in use of two way communication , project teams, joint consultation, electronic media, attitude surveys and partnership values. Delivering consistent results is very important and it is only possible through human resource. It has become very essential that talented employees are trained, developed, rewarded and allowed to meet their individual goals to create sustainable business models and successful organizations (Storey, J. 2007). Global competition, customer focus and the need for speed and flexibility has transformed the equations between management and employees now wherein both need to work in a congenial way towards harmonized individual and organizational goals .