RETHINKING THE EMPLOYMENT RIGHTS REVOLUTION

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Management of the employment relationship is a central problem for all organizations that do not rely strictly on volunteer labor. At least since Weber (1978), scholars have recognized that this is as much a political and discursive problem as a technical problem: the cooperation of subordinates, the legitimacy of management, and ultimately the survival of the organization itself requires a justification of hierarchy that is embedded in a societal-level institutional framework. The trick for managers, in Weber’s terms, is to express power in the form of authority. A further implication of this line of thought is that the employment relationship is historically contingent—different principles of obligation apply to the medieval peasant, the early modern artisan, and the contemporary bureaucrat or technician.

Realist accounts attempt to explain variation in the employment relationship—and organizational structure generally—in terms of technical imperatives, internal and external labor force demographics, or the coordinating influence of rational transcendent agents such as the state or the market (1994). We build on institutionalist accounts that, following Weber, emphasize the institutional environment. Two approaches predominate. One, exemplified by Bendix’s *Work and Authority in Industry* (1956), involves the cross-national analysis of long-term transformations in management ideologies. Bendix treats management ideologies primarily as normative constructs that legitimate hierarchy by reference to wider institutionalized conceptions of human personality, social mobility, and political domination. Guillén (1994) has updated Bendix’s agenda, in part by incorporating empirical developments in the latter half of the 20th century. More importantly, Guillén elaborates on Bendix theoretically by treating management regimes not only as legitimating ideologies but also as cognitive maps, and by attending more carefully to the problematic relationship between management ideology and practice.
A second line of work shies away from large-scale comparisons to focus instead on what Meyer (1994) calls “locally varying organizational-level outcomes,” typically over a relatively short span of time and a restricted social space. Most important for our purposes, a series of studies has analyzed some dramatic changes since the mid-1960s in the way employees’ rights and employers’ obligations are defined in the American workplace. Researchers have documented the diffusion of a number of specific policies that define the scope of employee rights, such as grievance procedures; and specific changes in organizational structure that have accompanied this process of rights-elaboration, such as the appointment of an Affirmative Action officer or the creation of a specialized benefits office (Dobbin and Sutton 1998; Dobbin, Sutton, Meyer, and Scott 1993; Edelman 1990; Edelman, Abraham, and Erlanger 1992; Edelman, Abraham, and Lande 1993; Kelly and Dobbin 1998, 1999; Sutton and Dobbin 1996; Sutton, Dobbin, Meyer, and Scott 1994). This research concludes that the “legalization of the workplace” is primarily a response to uncertainty created by government initiatives on a number of fronts—most conspicuously, equal employment opportunity and affirmative action (EEO/AA) law, but also reforms in state regulation of pensions and workplace safety. At the same time, it appears that legalization is not all of a piece: Some policies, such as grievance procedures and other mechanisms for appealing management decisions, formally extend workers’ rights; others, such as employment-at-will clauses, explicitly limit them. Nor is legalization a universal trend: public-sector employers and private employers with links to the state are more prone to legalization than others. Moreover there is evidence that, by the 1980s, the inclusive tendencies of legalization had run into conflict with an emerging trend toward downsizing, outsourcing, and the use of temporary labor (Pfeffer and Baron 1988).

These approaches have complementary strengths and weaknesses. The macro-comparative analyses of Bendix, and particularly Guillén, argue persuasively that management regimes are multifaceted bundles of ideologies, rules, and practices tied together by common institutional logics
(Friedland and Alford 1991), but these studies lack the empirical detail to demonstrate these logics in action in particular organizations. The “locally varying outcomes” approach has rigorously analyzed the diffusion of specific management innovations among specific employers, but they yield no evidence about whether these practices cohere into one or more discrete management regimes. Thus the inference that there has been a recent sea change in employment relations in the U.S.—what Dobbin and Sutton (1998) refer to as an “employment rights revolution”—remains unproven.

We bring these approaches together in order to develop a more comprehensive, and at the same time empirically verifiable, understanding of recent changes in employment relations in the U.S. We do so by treating the respective domains of these lines of research—populations of organizations on the one hand, and institutional environments on the other—as co-constitutive. It is a staple idea of open-systems theories, and of neoinstitutional theory in particular, that organizations draw their structures from the environments in which they operate. The result, in equilibrium, is isomorphism: the mix of organizations comes to resemble the mix of available resources, and the organizations occupying a particular resource niche will tend toward uniformity. But nothing is ever in equilibrium, and it is equally reasonable to see the process working the other way: as organizations adopt some practices and reject others, they affect the distribution of practices across the organizational field; in doing so they help to constitute their environments. While a great deal of research has focused on the influence of environments on organizations, relatively little attention has been paid to how organizations constitute environments.¹ We argue that both phenomena are moments in an iterative process of organization-environment transactions.

Focusing on employment relations practices in the post-World War II U.S., we seek to answer two sets of questions. First, do employment relations regimes exist as empirically observable

¹ In this discussion we restrict our attention to the effect of organizations on the distributional properties of environments, ignoring for now the potential effects of large organizations, industry federations, and cartels on the government regulations that affect their operations (Perrow 2002; Pfeffer and Salancik 1978).
phenomena? If so, how have they changed over time? Have employers converged on a single model, as Meyer (1994) and Dobbin and Sutton (1998) have argued, or is the employment relations field populated by competing institutional logics, as Friedland and Alford’s (1991) argument suggests? These are relational, not causal, questions (Emirbayer 1997), and we address them with a formal analysis of co-occurrences among a broad set of employment relations practices in a sample of U.S. employers observed over time. To forecast our findings a bit, our analysis reveals several empirically distinct clusters of practices, almost all of which are interpretable as coherent regimes. The second set of questions is causal: What sorts of organizations are inclined toward one or another of these management regimes? More importantly, what sorts of institutional environments are hospitable or hostile to different models of employment relations? Specific hypotheses will be generated from prior studies of the diffusion of specific management innovations.

Data and Methods

Sample and Data

The data used in this analysis come from a survey by Dobbin, Sutton, Meyer, and Scott2 of 279 U.S. employers that gathered retrospective information about employment relations policies and practices on a yearly basis from 1955 to 1985. This sample includes employers from seven for-profit industries, the non-profit sector, and three levels of government, chosen within three states—California, New Jersey, and Virginia.

We take advantage of the fact that existing research using this data set has analyzed only a small fraction of the available information about the distribution of employment relations practices. Our analysis casts a wide net, focusing on 40 practices that represent the gamut of management ideologies described by Bendix and Guillén, and then some: from personalistic practices like

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employee gifts, to Taylor-Fordist controls (time clocks, output measures), human relations programs, antidiscrimination policies, due-process practices (performance evaluations, grievance procedures), and practices said to characterize the “post-Fordist” workplace such as subcontracting and temporary employment.

Descriptive and Causal Analyses

The first step in the analysis is to test for the existence and form of management regimes. We treat this as a problem of relative structural equivalence (Burt 1976; Wasserman and Faust 1994), but among practices rather than actors (or organizations). To this end we applied hierarchical cluster analysis to the set of 40 employment relations practices, pooling observations at four points in time: 1955, 1965, 1975, and 1985.3 The analysis involved, first, construction of a (279 × 40) affiliation matrix of organization/years by employment relations practices for each year, in which each organization was assigned a value of 1 indicating the presence of a given practice and 0 indicating its absence. To assess the degree of similarity in employment relations practices we employed a Jaccard measure, which produces a (40 × 40) matrix of similarity coefficients in which every practice is compared with every other practice across their range of organizational profiles. This similarity matrix was then submitted to a hierarchical cluster analysis using the complete link method (Aldenderfer and Blashfield 1984; Wasserman and Faust 1994), which tends to yield more stable and homogeneous clusters than alternative methods. Practices cluster together to the degree that they share similar organizational profiles—that is, insofar as they are used by the same sets of organizations in the same years. We use the mean density level to set partitions between clusters. This is the standard criterion, and it turns out to yield clear, discrete, and interpretable clusters.

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3 As a check on the validity of our results, we conducted the same analysis using observations from all years in the sample. Differences were trivial. We use results from the four time-period analysis to simplify the task of programming.
Beyond a descriptive analysis of the relations among practices, we use regression techniques to test causal propositions about the movement of different types of organizations within the practice space. Each cluster yields a dependent variable, calculated as the sum of practices in a given cluster adopted by each organization in each year. These are event counts, for which the Poisson model is appropriate (Greene 1997: ch. 9). All 6701 organization/year observations are used in the regression analysis. Given the panel structure of the data, correction for heterogeneity is in order. The methodological literature contains a “mild preference” for a fixed effects estimator (Greene 1997: 942), but this precludes the use of independent variables that are fixed over time but vary across organizations. Instead we use the random effects estimator, as implemented in the Stata “xtpoisson” module (StataCorp 2003).

Descriptive Analyses

The cluster analysis revealed nine clusters of employment relations practices, and table 1 summarizes these results. In this table the clusters are listed in the order in which they appear (from right to left) in the resulting tree diagram, thus giving a very rough one-dimensional representation of where clusters are located in relation to each other in the practice space; later we offer a more informative two-dimensional picture. The empirical pattern of clusters is more complex than what we might expect from the standard textbook summaries, but the clusters themselves are substantively coherent and interpretable. Cluster one (Rights Practices) is the largest, comprising a set of 12 procedures that are apparently designed to make hiring and promotion decisions more transparent and universalistic (e.g., job descriptions and centralized hiring) and to provide employees with formal means of notice and appeal of personnel decisions (e.g., disciplinary warnings and grievance procedures). The presence of safety training programs, safety committees, and suggestion boxes appears somewhat anomalous. In fact, however, worker safety became in effect an employee rights
issue with the explosion of federal regulation in this area in the 1970s (Dobbin and Sutton 1998); suggestion programs, it appears, were understood as an extension of employee citizenship.

— Table 1 about here —

The second cluster characterizes employers with strong internal labor markets (employment tests, promotion tests, and job ladders). Again, this cluster seems to signify some orientation to employee rights, or at least to universalistic standards of decision making. But in fact these practices became legally problematic in the 1970s, when federal courts found that in some cases they reproduced deeply rooted patterns of racial discrimination (Dobbin et al. 1993), so it makes good sense that these practices stand apart. We label the third cluster “Fusion” since it includes both practices that seem to signify inclusiveness (social activities and maternity leave policies) and practices that signify an attenuated employer-employee relationship (temporary work and subcontracting for services). Our best interpretation is that this cluster characterizes employers that strive for leanness, but that adopt relatively progressive policies with regard to their permanent employees.

The fourth cluster (Rights Policies) consists entirely of explicit nondiscrimination policies targeted at various groups that are protected under federal and some state legislation (e.g. racial minorities, women, older employees). The most interesting thing about this cluster is not that these items cohere, but that they cohere in a different organizational terrain than those in cluster one. Intuitively, one would expect a close affinity between declarations of employee rights and procedures to implement rights, but the data do not bear out that intuition. Fifth is the Human Relations cluster, comprising HR programs of various sorts, counseling services, and recreation programs. In cluster six, piece rate payment systems and home work cohere to form a mini-regime that we have labeled Sweatshops.
The co-occurrence of policies targeted at homosexuals and nonsmokers in cluster seven is very interesting—partly because these two groups appear together, and partly because this cluster is distinct from the other group-focused policies that constitute most of cluster two. We call this cluster New Identities because it includes groups that were actively mobilizing during the time frame covered by these data, but were mostly unrecognized in formal law. Cluster eight (Paternalism) combines four rather traditional practices that point in one direction toward employer *noblesse oblige* (bonuses and annual gifts) and in the other toward close supervision of employee conduct (time clocks, dress and hair codes). Cluster nine (time and motion studies and output measures) appears to signify a small outpost of Taylor-Fordist industrial management.

Two practices—attitude surveys and employment-at-will clauses—did not cluster with any others. Examination of the data shows that these were rarely adopted; EAW clauses were relatively new innovations at this time, and other research has shown that they tended to diffuse in a remarkably unsystematic way (Sutton and Dobbin 1996). We ignore these practices in subsequent regression analyses.

To gain additional insight on the relationships among the clusters, we used multidimensional scaling techniques to identify the niches occupied by the various management regimes. We borrow our conceptual approach and analytical strategy from McPherson (McPherson 1983, 2004): management regimes compete with each other in the very real sense that they are actively promoted by employment relations professionals, academics, and consultants; and there are presumably limits on the number and types of practices that an employer can adopt. The same similarity matrix used in the cluster analysis was used to generate two-dimensional coordinates for all 40 practices. We located niche centroids by calculating the mean coordinates of the practices within each cluster along both axes, and set niche boundaries at 1.5 standard deviations from the centroids. Figure 1 shows the results of this procedure.
Interpretation of MDS results is as much art as science, but in this case the spatial arrangement of the regime niches suggests a few straightforward conclusions. Consider first the distribution along the horizontal dimension, in particular the rather wide gap between the four rightward niches and those on the left. The four clusters on the right are sparse, comprising only a few practices each; and they are much less popular among employers than the other five. This is shown in figure 2, which plots the mean proportional adoption of the two sets of regimes over time. By 1985 the average employer had adopted 30 percent of the ILM regime (or about one practice), which was the least common of those shown in panel 2a; at the same time the average employer had adopted 25 percent of the HR regime, the most common of those in panel 2b. It is fair to suggest that the rightward niches in figure 1 are diffuse, and perhaps ephemeral; the exception is the Taylorism niche, which is quite compact but overlaps almost completely with the sweatshops niche.

Remaining observations from figure 1 concern the five leftward niches. The rights practices regime is central to this group: it occupies a large niche; parts of that niche are shared with the ILM, rights policies, and fusion regimes, but these regimes do not overlap with each other. The paternalism niche sits apart. Here the vertical dimension is of interest. ILMs, which enact formal intraorganizational career tracks, lie to the north of rights practices; the fusion regime, which enacts an attenuated employment relationship, lies to the south; farther south is paternalism, which implies strict supervision of employees and few checks on employers’ discretion.

The analysis so far can be summarized in two somewhat contradictory points. First, the evidence tends to support the neoinstitutionalists’ claim that employee rights became a central trope in management ideology and practice during this period. But, second, this conclusion is attenuated by the observation that “rights talk” can be heard in different dialects: the most common invokes
relatively substantive due process practices, but others comprise mainly symbolic declarations of group rights, or articulate internal seniority schemes, or inflect regimes that otherwise protect employer discretion more than employee rights. Moreover, of the five regimes that diffused most widely, most are quite remote from the Selznickian ideal of legality.

Regression Analyses

We focus our causal analysis on the five most widely diffused regimes: Rights Practices, Rights Policies, ILMs, Fusion, and Paternalism. We choose this set because (1) they are the most common among the organizations in this sample; (2) they tend to comprise more practices than the other four regimes, and thus are likely to provide more sensitive indicators; and (3) this set includes a broad spectrum of management styles, from those that encourage rights elaboration (best exemplified by Rights Practices) to those that protect managerial discretion (best exemplified by Paternalism).

Independent Variables

We test variables that capture three kinds of effects: internal organizational structure, the influence of boundary-spanning agents, and the legal environment. Where possible, we distinguish factors that are likely to encourage either the elaboration of employee rights or the protection of managerial discretion.

*Internal structure:* Perhaps the most obvious differentiating factor is whether an employer is located in the public or private sector. Given prior research, we anticipate that private firms are relatively less inclined toward rights elaboration than public agencies, and more protective of managerial authority. Another basic factor to take into account is organizational size. A great deal of research suggests that larger organizations tend toward greater internal differentiation and more elaborate formal rules and procedures of all sorts, so we expect a positive association between size
(measured as the number of employees) and the adoption of any employment relations practices, regardless of regime type. The third internal factor we consider is the proportion of exempt (salaried) employees. This is a gesture to realist accounts: beginning with Selznick (1969), many writers in the management and scholarly literatures have argued that most of the recent elaboration of employment relations practices has been aimed at the growing ranks of highly mobile technical and white-collar workers (Ewing 1982, 1989; McCabe 1988). Williamson (1985; 1986) has made a similar argument in formal transaction-cost terms: elaborated rights structures may reduce turnover and forestall unionization among workers with high levels of firm-specific skills. Thus employers with high proportions of exempt employees should incline toward rights regimes and away from Fusion and Paternalism models.

**Boundary-spanning agents:** One of the most important findings from recent neoinstitutionalist research concerns the role of specialized agents who mediate between the organization and the legal environment. The recent empirical literature has presented strong evidence that employment relations professionals encourage the adoption of new practices as a means to increase their own prestige and influence, that innovations diffuse more rapidly among organizations with relatively more formalized employment relations structures, and that these recipes, in turn, have powerfully influenced subsequent administrative regulations and court decisions (Dobbin and Sutton 1998; Sutton and Dobbin 1996; Sutton et al. 1994). Employment relations specialists are thus key agents in the co-constitution of organizations and the legal environment. We test the effects of three kinds of boundary-spanning agents:

1. **ER offices:** The proliferation of formally designated offices within organizations devoted to employment issues provides a measure of organizational attention to labor market issues as well as resources available to ER specialists. We use an additive index ranging from zero to 7 that reflects whether an organization has specialized offices devoted to
personnel, affirmative action, labor relations, health and safety, benefits, career development, and/or legal matters in a given year. We hypothesize that organizations with relatively elaborate ER functions are more likely to adopt all sorts of ER practices; further, we suspect that effects would be stronger on rights-related regimes than on those at the other end of the spectrum.

2. Labor attorneys: As the legal environment grew more uncertain and apparently hostile in the 1960s and ’70s, employers increasingly turned to outside legal specialists for advice. These attorneys tended to encourage ER innovations that promised fairness and due process, more so than, for example, personnel managers (Edelman et al. 1992; Sutton and Dobbin 1996), and use of an outside labor attorney is also associated with the proliferation of formal ER offices (Dobbin and Sutton 1998). We expect that having a labor attorney on retainer is positively associated with the adoption of rights-oriented regimes, but is probably not associated with ILM, Fusion, or Paternalism regimes.

3. Unions: Following a similar logic, we also test the effects of having a union contract. In the U.S., employee rights were first recognized in collective bargaining agreements, not government policy, and employers that are bound to a union may well make different choices among ER regimes in general than those that are not. But it is not clear what direction these effects might take. A Selznickian perspective suggests that legalization is “crescive” (Selznick 1969)—that is, that a collective bargaining agreement represents an initial commitment to employee rights that is likely to be elaborated and extended to non-union employees over time. Jacoby (1985) suggests that legalization is a managerial strategy to contain union power in the workplace. Both of these arguments suggest that unionized employers would be more inclined toward the rights practices and rights policies regimes. But from an alternative perspective, one could argue that unions have
become forces for traditionalism; they guard their members’ prerogatives jealously, and are disinclined to encourage fairness on behalf of unorganized workers. Williamson (1985; 1986) and others argue that formalization of ER practices is a means to buy off employees who might otherwise be receptive to union appeals. This reasoning suggests that unionized employers would not be particularly attracted to regimes emphasizing broad employee rights than others, and might even be drawn to more traditional regimes emphasizing managerial autonomy.

Legal environments: We conceptualize legal environments in terms of the varying influence of federal and state governments. Extant research shows that regulatory relationships and resource dependencies with government encourage the adoption of many legalization practices, even in the absence of specific mandates; by logical extension, it is reasonable to predict that these same ties have discouraged adoption of fusion and paternalistic regimes. The analysis tests four routes of possible government influence:

1. **Federal contractors:** Employers that contract with the federal government—a category that includes state and local government agencies—are subject to Affirmative Action rules, and since 1972 have been required to file workforce statistics with the Office of Federal Contract Compliance Programs (OFCCP). Affirmative Action rules do not mandate any specific ER practices, and in any event the OFCCP has little enforcement power. Nevertheless there is evidence that federal contractors are more inclined toward rights elaboration than other employers, if only as a symbolic attempt to show good faith compliance with ambiguous mandates. We predict that adoption of rights practices and rights policies is associated with the degree of dependence on federal contracts, measured as a percentage of total activity; we anticipate no effects on adoption of ILMs, and negative effects on adoption of Fusion and Paternalism regimes.
2. **EEO1 reporting:** Employers above a certain size threshold are required under various antidiscrimination statutes to file regular reports with the Equal Employment Opportunity Commission (EEOC). EEO law, like Affirmative Action rules, mandates no specific practices, and the EEOC, like the OFCCP, has never been an effective enforcement agency. But parallel to our hypothesis regarding federal contracting, it is likely that employers in this category are more aware of legal uncertainty and more likely to take steps to immunize themselves against EEOC complaints and employment-related lawsuits. We expect the same pattern of effects.

3. **State legal environments:** Employers in this sample are located in three states showing sharp differences in employment relations law. California is the most progressive because of its unique combination of legislative and judicial activism. Like many other states, California has essentially extended federal equal employment opportunity guarantees to employees not covered by federal legislation, and California courts have been the most aggressive in the nation (with the possible exception of those in Michigan) in protecting employees from wrongful discharge. New Jersey's employment statutes are similar to California's, but the judiciary there has not been aggressively pro-employee. Virginia is a right-to-work state with low levels of both legislative and judicial support for equal employment opportunity and employee rights. Given this, we expected California employers to show the most enthusiasm for rights-oriented regimes and Virginia the least, with New Jersey in the middle, but early tests showed that significant differences appeared only between California and the other two. Our regression models thus include only a dummy variable indicating location in California.

4. **Period effects:** There is substantial empirical evidence that adoption of several specific ER practices accelerated in the early to mid-1970s in response to new federal mandates contained in the 1972 amendments to Title VII of the 1964 Civil Rights Act, the
Occupational Safety and Health Act of 1970, the Pension Reform Act of 1974, the Rehabilitation Act of 1973, and other legislation and court rulings. The trends in figure 2 suggest that this applies to the Rights Practices, Rights Policies, and Fusion regimes, but that other regimes were unaffected. We use a binary variable coded 1 for observations from 1972 to 1985, and zero before that, and predict positive effects only for those three clusters.

Regression Results

Results from linear regression analyses are shown in table 2. Models appear in order from the most rights-oriented regime on the left to the least rights-oriented regime on the right. All of the variables discussed above are included in all models; to correct for a positive secular trend among all regimes, we also include a variable that counts elapsed time (in years) since 1955. Substantively, this variable represents any purely mimetic effects (DiMaggio and Powell 1983) that are not shaped by other measured covariates.

Consider first results concerning the effects of organizational sector, size, and employee characteristics. As expected, private firms are significantly less likely to adopt rights practices and significantly more likely to adopt paternalistic practices. On average, private firms are less likely to adopt rights policies than public agencies, and more likely to move toward the fusion regime, but the coefficients in these models are not significant. Somewhat surprisingly, the ILM regime is substantially and significantly more common in the public sector. Size matters, and as realists would anticipate, its effect has more to do with economies of scale than with management doctrines. Larger organizations are significantly more inclined to most sorts of formalization, and the size effect is particularly strong for regimes that require substantial resource commitments, particularly ILMs. The single negative coefficient appears in the model for rights policies, showing that smaller
employers are more inclined to the most purely ritualistic (indeed, nearly effortless and cost-free) practices. Effects of dependence on high-status labor pools, as indicated by the proportion of exempt employees, are more sparse, and not easy to interpret. Employers with more exempt employees are, as expected, substantially and significantly more likely to enact rights policies, and also significantly more likely to invest in ILMs; but they are not inclined toward rights practices, and they do not shun the fusion or paternalism regimes. Evidence that employers tailor their management practices to their most privileged employees is thus mixed.

Effects of boundary-spanning agents vary widely. As expected, the proliferation of employment relations offices encourages adoption of both the rights practices and rights policies regimes. However, complexity of this sort is also significantly associated with the fusion regime. The impact of unionization runs very much contrary to Selznick’s expectations. Employers with union contracts are significantly more likely than others to adopt the fusion or paternalist management models, and are quite indifferent to rights-oriented regimes. The indifference of unionized employers to ILMs is particularly noteworthy, given the affinity of labor unions for structured seniority systems. Finally, results suggest that outside labor attorneys are quite promiscuous in their recommendations: all of the associated coefficients are positive and significant, indicating that legal input increases formalization of employment relations across the board.

The last set of variables represents the influence of state regulation. Federal contracting shows positive and significant associations with the rights practices and fusion regimes, but not with any others. Organizations that file EEO1 reports are significantly more likely to adopt rights policies, and significantly less likely to use paternalistic management practices; there is no association with rights practices, ILMs, or fusion. As expected, employers in California are significantly more likely than those in New Jersey and Virginia to invest in rights practices, and also in ILMs; they show
no differences with regard to rights policies, fusion, or paternalism. The coefficients for the period
dummy show that the popularity of all five regimes rose significantly after 1972.

The pattern of effects in these models is complex, making it impossible at this point to offer
broad generalizations about the sorts of employers that are drawn to different regimes. Some limited
comparisons across regimes are sensible and useful. Consider, first, the models for rights practices
and rights policies. These regimes differ from the others in that both involve explicit recognition of
employee rights; they differ from each other in that one recognizes rights more substantively and the
other more symbolically. Which observed effects set these regimes apart from the others, and which
distinguish between them? The only interesting similarity is that both are more common among
employers with complex sets of ER offices—and even this distinction is not pure, since this factor is
also associated with the fusion regime. The most conspicuous difference is that substantive rights
practices appeal to large firms, and symbolic rights policies to small firms. Other differences are
interesting, however: the rights practices regime is more common among public agencies, employers
with federal contracts, and California employers; rights policies are more common among employers
with high proportions of exempt employees and those that file EEO1 reports. It is theoretically
quite sensible that location in the public sector, reporting requirements associated with federal
contracting, and California’s assertive defense of employee rights would encourage an emphasis on
substance over ritual; it is not at all obvious why EEO1 reporting and dependence on a high-status
labor pool should encourage the opposite.

As a second exercise, compare models for the rights practices and paternalism regimes.
These are, conceptually, polar opposites, so differences in the models should be sharp and
informative. The sharpest difference is sectoral: rights practices are more common in public
agencies, and paternalism in private firms. Other differences are more subtle, involving factors that
are associated with one regime but orthogonal to the other. The complexity of ER offices, federal
contracting, and location in California encourage rights practices, but not paternalism. Paternalism is encouraged by unionization and discouraged by EEOC scrutiny. This pattern is easily interpretable and quite sensible in theoretical terms. Nonetheless, interpretations are frustratingly limited. It would be tempting to conclude, for example, that the rights practices regime is most common in public agencies located in California that have complex ER structures and that contract with the federal government, while paternalism reigns among unionized private firms that do not report to the EEOC. That would be erroneous, however, since the estimated effects in these models are statistically independent—in Boolean terms, they are connected by “or,” not “and.” We discuss some possible ways to surmount these limitations in our concluding discussion.

Discussion

This paper has challenged the conclusion drawn from neoinstitutionalist research that a “revolution” in U.S. employment relations has occurred in response to dramatic changes in the legal environment during the 1960s and '70s. That employers have increasingly adopted a wide range of rights-oriented practices is incontrovertible. What remained to be established is whether these practices form a coherent model of management, and if so whether that model has supplanted its competitors. Our strategy in this regard has been to treat organizations as dual structures (Breiger 1974) comprising attributes such as sector, size, and complexity on the one hand, and sets of employment relations practices on the other. Management regimes are thus understood not as free-floating ideologies or theories, but rather as distributions of practices in interorganizational Blau space. By extension, the legal environment itself is neither antecedent nor exogenous (Edelman In press)—instead it is constituted in important ways by employers as they adopt some practices and reject others.

Results from the inductive phase of the analysis suggest that the neoinstitutionalist case has been somewhat overstated. They show that employers increasingly recognized employee rights, but
in at least three different forms: as a set of practices, as a set of ritualistic guarantees for legally
protected groups, and—marginally in this time frame—policies for homosexuals and nonsmokers. Moreover other management regimes persist. Given the dynamic clustering strategy used here, any
of the management regimes we identified could have declined after a period of popularity, but
frequency plots showed general increases in the use of all kinds of formal ER practices. Sweatshops
and Taylorist practices were marginal, and recognition of gay and nonsmoker rights was only
nascent, but they continued to occupy identifiable niches; other regimes that are in varying degrees
antithetical to legalization—especially human relations and paternalism—thrived.

For our regression analyses, we focused on a subset of regimes that seemed to represent a
spectrum of management styles, from those most supportive of employee rights to those most
protective of employer discretion. We hoped that our models would clearly discriminate among
employers in these terms, and that seems to be the case, at least at the extremes of rights practices
and paternalism. This pattern conforms to, and extends, findings in much of the neoinstitutionalist
research. But other results muddy the waters. Increased federal enforcement capacity, signified by
the period effect, and links to labor attorneys showed positive associations with every management
regime—a theoretically vapid result. More direct measures of government scrutiny produced results
that are difficult to reconcile: Why should federal contractors tend toward rights practices and
fusion? Why should EEO1 reporting encourage rights policies, but not rights practices?

Several factors might account for this messiness. Most obviously, it might be that we are
mistaken to treat these regimes as a unidimensional array—especially since they were generated from
a multidimensional analysis. Even if our conceptualization is reasonably accurate, the models may be
misspecified due to missing variables. Put more simply, perhaps some key distinguishing factor has
been overlooked, despite our best efforts to be inclusive. If this is the case, then a decade and a half
of prior research on the employment relationship has been going headlong down the wrong track.
We think it more likely that simpler patterns may be present in complex combinations of effects we have treated as separate. Note the asymmetry in our analyses: we induced a typology of management regimes using a technique that takes into account the contemporaneous spatial relations among all practices simultaneously, while our regression analyses combined independent variables in conventional linear-additive form. A more appropriate strategy would be to combine methods that matched types of management with types of organizations. For example, finding that paternalism is common among private firms and unionized employers is not the same as finding that it is common among unionized private firms—by construction, the estimated effects of sector and unionization are independent. We are currently exploring two alternative approaches. The first is to induce a typology of organizational forms from combinations of the variables used here. Latent class factor analysis (Goodman 1974; Magidson and Vermunt 2001) looks to be a promising approach. A second is to test for hierarchical effects (Bryk and Raudenbush 1992) in which the influence of organization-level variables are contingent on their context. It seems reasonable to ask, for example, whether the effects of size, ER office complexity, and unionization might vary between sectors, states, or time periods.
References


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Figure 1. Niche Map of Nine Employment Relations Clusters
Figure 2. Weighted Mean Values for Employment Relations Practice Clusters, by Year
<table>
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<th>Cluster</th>
<th>Practices</th>
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<td>1. Rights practices</td>
<td>Due process-oriented procedures: Job descriptions, salary classifications,</td>
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<td>performance evaluations, centralized hiring, centralized promotion and</td>
</tr>
<tr>
<td></td>
<td>discharge, disciplinary warnings, disciplinary hearings, safety training,</td>
</tr>
<tr>
<td></td>
<td>safety committees, grievance procedures for non-union employees,</td>
</tr>
<tr>
<td></td>
<td>suggestion box, grievance procedure for union employees</td>
</tr>
<tr>
<td>2. Internal labor markets</td>
<td>Employment tests, promotion tests, job ladders</td>
</tr>
<tr>
<td>3. Fusion</td>
<td>Subcontracting for services, social activities, maternity leave, temporary</td>
</tr>
<tr>
<td></td>
<td>employment</td>
</tr>
<tr>
<td>4. Rights policies</td>
<td>Nondiscrimination policies for groups protected under federal legislation:</td>
</tr>
<tr>
<td></td>
<td>Racial-ethnic minorities, women, physically handicapped, mentally</td>
</tr>
<tr>
<td></td>
<td>handicapped, over age 40, pregnant women</td>
</tr>
<tr>
<td>5. Human relations</td>
<td>HR programs, counseling programs, recreation programs</td>
</tr>
<tr>
<td>6. Sweatshops</td>
<td>Piece rates, home work</td>
</tr>
<tr>
<td>7. New identities</td>
<td>Policies for homosexuals and nonsmokers</td>
</tr>
<tr>
<td>8. Paternalism</td>
<td>Time clocks, annual bonuses, employee gifts, dress and hair codes</td>
</tr>
<tr>
<td>9. Taylorism</td>
<td>Time and motion studies, output measures</td>
</tr>
</tbody>
</table>
Table 2. Random Effects Poisson Regressions of Selected Variables on Five Management Regimes: Linear Effects

<table>
<thead>
<tr>
<th></th>
<th>(1) Rights Practices</th>
<th>(2) Rights Policies</th>
<th>(3) ILM</th>
<th>(4) Fusion</th>
<th>(5) Paternalism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private firm</td>
<td>-0.474***</td>
<td>-0.437</td>
<td>-1.007***</td>
<td>0.239</td>
<td>1.595***</td>
</tr>
<tr>
<td>(ln) Employees</td>
<td>0.183***</td>
<td>-0.089*</td>
<td>0.268***</td>
<td>0.084**</td>
<td>0.079*</td>
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<tr>
<td>Exempt employees</td>
<td>0.015</td>
<td>1.064***</td>
<td>0.391*</td>
<td>0.274</td>
<td>-0.277</td>
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<tr>
<td>ER offices</td>
<td>0.078***</td>
<td>0.152***</td>
<td>0.023</td>
<td>0.091***</td>
<td>0.032</td>
</tr>
<tr>
<td>Union contract</td>
<td>-0.031</td>
<td>-0.031</td>
<td>-0.017</td>
<td>0.220**</td>
<td>0.272***</td>
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<tr>
<td>Labor attorney</td>
<td>0.294***</td>
<td>0.150**</td>
<td>0.458****</td>
<td>0.251***</td>
<td>0.375***</td>
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<tr>
<td>Federal contracts</td>
<td>0.757***</td>
<td>0.505</td>
<td>0.336</td>
<td>0.851***</td>
<td>0.161</td>
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<tr>
<td>EEO1 reports</td>
<td>-0.006</td>
<td>0.508***</td>
<td>-0.070</td>
<td>0.062</td>
<td>-0.099*</td>
</tr>
<tr>
<td>California</td>
<td>0.250***</td>
<td>0.355</td>
<td>0.419*</td>
<td>0.087</td>
<td>-0.006</td>
</tr>
<tr>
<td>Post-1972</td>
<td>0.039***</td>
<td>0.069***</td>
<td>0.020***</td>
<td>0.045***</td>
<td>0.029***</td>
</tr>
<tr>
<td>Time</td>
<td>0.054*</td>
<td>0.312***</td>
<td>0.006</td>
<td>0.027</td>
<td>-0.038</td>
</tr>
<tr>
<td>Constant</td>
<td>-0.303**</td>
<td>-1.663***</td>
<td>-1.957***</td>
<td>-1.729***</td>
<td>-2.260***</td>
</tr>
</tbody>
</table>

χ² 5188.73 3784.29 410.25 1617.10 611.59

Standard errors in parentheses
* p < .05 ** p < .01 *** p < .001