

Introduction: New Institutional Arrangements for Safeguarding Labour Standards

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Abstract

This introductory chapter surveys institutional experimentation that has emerged internationally in response to the contraction of the traditional model of employment protection. Various initiatives are discussed according to the particular challenges they are designed to address: the emergence of non-standard employment contracts; increasing sources of labour supply engaging in non-standard work; intensification of exogenous pressures on the employment relationship; the growth of intermediaries that separate the management from the control of labour; and the emergence of entities that subvert the employment relationship entirely. Whereas post-war industrial relations scholars characterised the traditional regulatory model as a 'web of rules', we argue that nascent institutional experimentation is indicative of an emergent 'patchwork of rules'. The identification of such experimentation is instructive for scholars, policymakers, workers' representatives and employers seeking solutions to the contraction of the traditional regulatory model.

Keywords: Collective bargaining; corporate social responsibility; employment contracts; employment relations; human resource management; institutional experimentation; insecure work; labour standards; statutory protections; trade unions

Introduction

The institutions that were once relied upon to protect workers' wages, conditions and job security are eroding. Since the 1980s, trade union membership has declined in most countries. So too have traditional forms of 'joint regulation' such as collective bargaining. A growing proportion of workers are engaged insecurely on temporary or short-term contracts or via platforms without the protections traditionally available to employees. It has become harder for many workers to negotiate decent wages, which has contributed to widening inequality. The growth of outsourcing and fragmented supply chains has made it difficult for employers to provide secure working arrangements and commitment-oriented human resource management

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(HRM). These trends and challenges have been accentuated by the global COVID-19 pandemic.

New forms of worker protections are emerging to address these challenges. In some countries, governments have developed innovative forms of regulation in response to business structures that have contributed to worker insecurity. Trade unions and community organisations have also developed new strategies for workers whose insecurity makes traditional forms of organising and bargaining difficult.

Against this backdrop, this book contends that the 'web of rules' that sustained the standard employment contract since the end of the Second World War has been replaced by a 'patchwork' of rules that encompasses joint regulation, voluntarist employer-led mechanisms, statutory minimum standards, and 'institutional experimentation' (Murray, Lévesque, Morgan, & Roby, 2020) to enhance employment protections in response to the rise of non-standard forms of work. This is relevant to trade unions and studies of trade unionism because the increasingly diverse and complex ways that work is organised requires attention to the increasingly diverse set of actors and institutions involved in ensuring that workers are adequately protected (Doellgast, Lillie, & Pulignano, 2018). Trade unions continue to have a critical role in this endeavour, as several of the chapters in this volume highlight (Pulignano, Köhler, & Stewart, 2016). However, in the organisations, industries, and countries where unions are weak or repressed, it is important to understand the various alternative mechanisms for developing and maintaining labour standards and the new systems of labour relations that are emerging. In this context, this introductory chapter sets out the theoretical underpinnings of our contribution, including the nature of this 'patchwork of rules' and the roles that unions and other organisations are playing in experimenting with new regulatory protections. It also provides a brief outline of the rest of this book.

This volume serves as a tribute to Willam (Willy) Brown, whose work and mentorship was an immense source of inspiration for the editors of and contributors to this volume. Willy was a kind man and a brilliant scholar with a passion for ensuring that labour institutions evolved and adapted to the rapidly changing contours of work and labour markets to ensure that their central mission of protecting fairness was maintained. The contributions examining institutional responses to these changes were developed from our discussions and collaborations with Willy. Our analysis also occurs as the world comes to terms with the COVID-19 global health pandemic and the immense impact this will continue to have on labour markets, welfare states, and on the very nature of the human condition. The issues addressed here are currently those being confronted by workers, trade unions, and policy-makers across the globe. In this sense, the issues raised in this contribution are highly relevant in terms of both content and timing.

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The Web of Rules

Post-war industrial relations' scholars described the terms and conditions governing the relationships that prevailed between employers and workers in industrialised democratic countries as a 'web of rules'. The concept was first introduced by Kerr and Siegal (1955) and was developed further by Dunlop (1958) who defined it as the substantive norms and procedural institutions, both formal and informal, that govern work relations (see also Adams, 1977; Bain & Clegg, 1974). These rules were typically negotiated jointly by the parties at the workplace-level or by industry representatives within the parameters of regulations set down by the state.

The web of rules was conceived in an essentially pluralist context in which, across virtually all Western economies at least, the workforce was strongly unionised and collective bargaining (or similar joint or tripartite) arrangements were the standard processes through which the rules and conditions of employment were determined (Fox, 1966). Because collective bargaining generally operated on an inclusive basis by covering most workers and workplaces, including those who were not union members, it produced a web of rules that was seen as dominant and became the key referent through which to manage and understand the employment relationship.

The result of this dominant web of rules was the emergence of a standard employment relationship in the form of full-time ongoing employment contracts which endured in a systemic way until at least the 1980s. This development represented a progressive innovation that provided workers in advanced economies with income, job, and social security (Fudge, 2017). This is not to suggest that labour market insecurity is new. As Pollert (1988, 1991) highlighted over 30 years ago, women and migrants in the informal and secondary labour markets, in particular, have long been hired for casualised, part-time, and low-paid work. Whereas previously it was hidden, Pollert argued that these forms of employment were legitimised and ideologically celebrated within the new neo-liberal discourse of flexibility, contingent work, and self-employment.

The Rise of Non-Standard Forms of Employment

In recent decades, what had come to be known as the 'traditional' or 'systemic' web of rules has contracted to cover a decreasing share of the workforce (Brown & Wright, 2018). This development is perhaps most evidenced in advanced countries 4 Barry Colfer et al. especially, though not exclusively, 'Anglo-American' countries with a liberal market tradition (Kochan & Riordan, 2016). This contraction has occurred due to various overlapping factors including: the emergence of many new forms of nonstandard employment; the intensification of exogenous pressures on the employment relationship; the growth of intermediaries that separate management from the control of labour; and the emergence of entities that subvert the employment relationship entirely, as we argue below.

The growth of non-standard forms of employment has been underpinned by a fracturing of the mechanisms that traditionally sustained the standard employment

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relationship, particularly trade union representation and sectoral-level collective bargaining. A distinguishing feature of non-standard forms of employment, and the essential reason why they are considered non-standard, is their tenuous or non-existent relationship to the institutions that traditionally regulate labour standards (Fudge, 2017).

While this trend has been apparent since the 1980s, the growth of nonstandard forms of employment has been greatly enabled and enhanced by the rise of online platforms and the so-called 'sharing' or 'gig' economy (Wood, Graham, Lehdonvirta, & Hjorth, 2019; World Economic Forum, 2018). At the heart of the gig economy lies the now ubiquitous online platforms which automate some core management functions and thus enable the on-demand utilisation of labour.

Several other factors have driven the growth of non-standard employment, including the internationalisation and fragmentation of business activity and ownership, which has greatly increased product and financial market competition, while weakening the bargaining power of traditionally organised labour. Meanwhile, information, communication, manufacturing, and transportation technologies have radically transformed supply chains (Trevor, 2016).

Overarching these developments have been the processes of digitalisation, automation, and micro-processing, which, taken together, have expanded opportunities for increased productivity and flexibility at work, as well as for increased workplace surveillance and coercion. Digitalisation also raises the prospect of technology substituting human beings in an increasing number of roles and tasks. It has been widely documented that occupations featuring a large share of repetitive, encodable, and routine tasks face a relatively higher risk of being automated. A significantly lower risk affects occupations performing tasks that entail a high degree of creativity or complex reasoning (Arntz, Gregory, & Zierahn, 2016; Frey & Osborne, 2017; Nedelkoska & Quintini, 2018).

The degradation of what had become the standard contract of employment has often been presented as the inevitable outcome of global competition and technological advancement, although it also clearly reflects the dominant ideology of many employers (Dundon, Harney, & Cullinane, 2010; Pollert, 1988) and the conscious legislative enhancement of employer power (Baccaro & Howell, 2017; McLaughlin & Wright, 2018). An important and related contributing factor in more recent years was the period and ideology of 'austerity' following the global financial crisis from 2008 which led to downward pressure on wages and a marked increase in contingent forms of work (Schömann & Clauwaert, 2012).

Notably, while it is indeed true to say that non-standard forms of work have grown, the standard contract of employment remains the dominant form of employment in most advanced economies (Adams & Deakin, 2014; Fudge, 2017). It is important therefore to caution against grand assertions and sweeping statements and to critically explore the available evidence (e.g. Soffia, Wood, & Burchell, 2021). Thus, while the proportion of workers covered by the standard employment relationship

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has declined throughout the world, the main elements of the traditional web of rules, including standard employment contracts and joint regulation mechanisms such as collective bargaining that traditionally sustained them, remain prominent in many countries. Even here, however, while macro-data continue to show tenure in the UK has remained stable over the past 40 years (Choonara, 2020), many of the traditional rules of employment, such as guaranteed hours, have been undermined. What is also apparent is an increasing polarisation, with the labour market composed of highly protected workers with permanent contracts in secure jobs (including in the public sector) working alongside highly precarious workers with unpredictable terms and conditions of employment with limited or no access to social protection. This polarisation is frequently evidenced within organisations, and indeed across employees in the same role. Moreover, this polarisation has accentuated existing inequalities and discrimination, which have impacted particular groups of workers, such as women, the young, migrant workers, and ethnic minorities. The gender pay gap, for example, is rooted in historical legacies of discriminatory pay setting norms underpinned by the 'male breadwinner model'. Increased fragmentation of the labour market and outsourcing has made it difficult for some groups of women to take legal pay claims (Deakin, Butlin Fraser, McLaughlin, & Polanska, 2015) McLaughlin, 2014; see Chapter 3, this volume). Nonetheless, as the web has contracted and as work relations have become more market mediated, new institutional arrangements have emerged in response.

From a Systemic Web of Rules Towards an Emergent Patchwork of Rules

Whereas post-war industrial relations' scholars characterised the traditional regulatory model as a 'web of rules', we argue that nascent institutional experimentation is indicative of an emergent 'patchwork of rules'. This 'patchwork' is composed of several separate but related contemporary webs of rules that are most easily identified in liberal market economies where the contraction of the traditional web of rules has been most pronounced.

The first is the traditional web of joint regulation through collective bargaining or equivalent arrangements, often (but not always) involving trade unions, who used their bargaining power and associated strategies based on worker collectivism to offset the power advantage that employers generally enjoyed over individual workers thereby seeking to establish (and sustain) secure and decent work conditions for the workforce.

The second is a voluntarist, employer-led web of rules, driven by corporate social responsibility (CSR) and high-commitment HRM. This has dominated public 6 Barry Colfer et al. policy discourse since the 1990s, and covers a broad range of labour market issues including gender and race equality, work-life balance, human rights abuses, and child labour in global supply chains. As societal expectations of corporate behaviour have changed, many businesses have adopted proactive strategies as part of a 'business case' for ethical behaviour, which includes reducing reputational and litigation risks and recruiting and retaining skilled employees

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(McLaughlin, 2019). This approach is particularly dominant in occupations and industries that have experienced considerable growth over the past quarter century. This includes white-collar private sector services industries, such as professional services and fast-moving consumer goods firms. These sectors are associated with the emergence of HRM and specifically talent management and a unitarist ideological undercurrent (Dundon & Rafferty, 2018; Geare et al., 2014). The relatively high individual bargaining power of professionals that characterise these industries on account of their scarce skills and mobility reduces the perceived necessity for union-negotiated and statutory minimum standards (Rousseau, 2015; Trevor & Brown, 2014). In this vein, contemporary high-commitment HRM practices are seen to 'substitute' for the governance, stability, and 'people orientation' provided for by the traditional web of rules (Harney, Dundon, & Wilkinson, 2018). The actual stability and security provided for by these employer-led rules (especially the context of financialisation and changing market dynamics) is something that we will explore in this volume.

The third web of rules relates to statutory minimum standards, predominantly aimed at non-unionised lower-skilled occupations, the non-professional private services sector, and industries that are susceptible to outsourcing, automation, and offshoring, which shift the power equilibrium away from workers and towards employers. Here the focus is on suppression of worker power based on anti-union sentiment. In response to growing labour market inequality and reports of poverty wages, insecure 'zero hour' contracts, and exploitation of lowpaid workers, public pressure has led governments to introduce a wide range of individual employment rights legislation. Brown (2008) referred to this as 'augmented pluralism', in that it was a recognition of the inherent power imbalance in the employment relationship and the need to address fairness and equity. In many liberal market economies (Colvin & Darbishire, 2013) and some coordinated market economies such as Germany (Sack & Sarter, 2018), the introduction by governments of statutory minimum wages and conditions has been aimed primarily at workers in this web who can no longer rely upon unions to protect them. In the European context, EU directives have played an important role in strengthening minimum labour standards (see Chapter 2, this volume), although their impact is allied to the dynamics of diffusion and diluting undertaken at a national level. Unions have also been able to use litigation around individual employment rights to complement rather than substitute for collective bargaining in relation to gender discrimination and unequal pay (Deakin, et al., 2015; see also Chapter 3, this volume).

Transcending these three webs are different types of institutional experimentation that have emerged in response to the growth of insecure forms of work. In some cases, these initiatives are designed specifically to protect workers on non-standard employment contracts, rather than generalised standards that would be encompassed by the third web. In other cases, institutional experimentation comes in the form of localised, bottom-up, or specific initiatives developed by workers' representatives or advocates and/or by socially responsible businesses, typically in

response to a lack of state regulation (Wright et al., 2019). Thus, the three webs are not mutually exclusive and can complement or sometimes operate in tension with each other. In order to provide context for the chapters in this volume, the following section reviews some of the main manifestations of the regulatory contraction that have occurred.

The Contraction of the Traditional Web of Rules and Institutional Experimentation Developed in Response

In our analysis, we categorise five cross-cutting types of contraction of the traditional web of rules that have emerged, and manifestations of each, namely: the emergence of non-standard forms of employment contracts; the expansion of sources of labour supply; the intensification of exogenous pressures; the separation of the management of labour from the control of labour; and the replacement of the employment relationship. We also identify a broad range of institutional experimentation that has developed in response which make up the emergent patchwork of rules. The details of these types of contraction, manifestations, and examples of institutional experimentation are summarised in Table 1.

Non-standard Forms of Employment Contracts

The growth of non-standard forms of employment contracts is the first manifestation of the breakdown of the traditional web of rules that we identify. This includes the proliferation of temporary employment as well as other forms of contingent contracts, such as ‘zero hours’, ‘if and when’, ‘on-call’, or ‘seasonal’ contracts, whereby the employer is not obliged to offer an employee guaranteed hours (ILO, 2016; O’Sullivan et al., 2017).

Public pressure in response to the growth of non-standard employment contracts has led some governments to introduce legislative restrictions. For example, in New Zealand restrictions on ‘zero hours’ contracts were introduced in 2016. In Ireland, legislation setting ‘banded hours’ of work was introduced in 2018, which guarantees hours of work in line with an employee’s recent work patterns. Another example is that of pay ‘loading’ or the provision of higher rates of hourly pay for workers on temporary or fixed-term contracts (Whiteford & Heron, 2018). Such measures, if designed carefully, can help to ensure that non-standard contracts are used only for genuine fixed-term or intermittent assignments.

The introduction of portable entitlements that enable workers to access benefits that have been accrued from previous engagements are another protection mechanism for non-standard workers which have been introduced, for example, in France and Australia (Colfer & Ranft, 2019; Markey et al., 2016). Meanwhile, in some industries such as agriculture characterised by seasonal labour needs with a genuine reliance on non-standard work arrangements, the creation of territorial pacts and labour cooperatives that allow for the pooling of workers between multiple businesses has emerged in the likes of France, Italy, and the Netherlands (Regalia, 2013).

Expansion of Sources of Labour Supply

The growth in non-standard forms of employment requires a supply of workers who are willing or obliged by circumstances to engage in such employment. This relates to the second manifestation of contraction in the traditional web of rules that we identify, namely: the expansion of sources of labour supply that are available to perform temporary and fixed-term employment or gig work. Some workers opt for such arrangements out of choice to maintain flexibility, for example, to accommodate caring responsibilities or education (ILO, 2016), because they lack the bargaining power, qualifications, and experience to obtain a standard contract, or because their work rights (e.g. in the case of certain migrants) are restricted thus limiting their employment options. There has been institutional experimentation to protect workers engaged in such non-standard work due to structural constraints or limited opportunities. The organisations that have created these innovations vary across national contexts. For instance, unions in the UK have developed community alliances to reach difficult to organise workers concentrated in occupations defined by intermittent work schedules (Holgate, 2015). In the USA, worker centres often functioning without union support, perform a similar protective function particularly among migrant workers (Fine & Bartley, 2018). In these and other cases, community organisations, such as NGOs, charities, or religious organisations, can improve the capacity of representative organisations, to reach workers in non-standard employment. In addition, social media networks and other digital technologies have allowed unions and some groups of workers to retain and extend their power by transcending the spatial and temporal boundaries that have traditionally separated people in temporary non-standard employment. In these ways, unions can obtain the capacity to represent, organise and mobilise hard-to-reach young people, migrants and gig workers, and other marginalised wage-earners (Dencik & Wilkin 2015; Geelan, 2015; Wood, Lehdonvirta, & Graham, 2018). At the same time, however, social media platforms can have the contradictory effect of further reducing union membership and the ability of workers to mobilise, by pulling attention and resources away from organising, even as spectacles of worker collective action seemingly increase. There is also evidence of employers using social media to monitor, suppress, and counter union activities and campaigns (Upchurch & Grassman, 2015). Thus, while union experimentation with digital technologies holds great promise, especially for marginalised or spatially dispersed workers, it also poses considerable challenges and risks.

Intensification of Exogenous Pressures

Greater market competition and the expansion of financial capital flows have compelled many organisations to reduce production and overhead costs. This has prompted these organisations to focus on their core competencies and to shift the peripheral aspects of their production to contractors and external providers (Westcott, Clibborn, & Wright, 2020). These developments reflect a 'fissuring' of work (Weil, 2014), where the business activities of an external organisation substantially influence the terms of the employment relationship (Marchington, Grimshaw, Rubery,

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& Willmott, 2005; Wright & Kaine, 2015) and intensify exogenous pressures on the employment relationship. These external pressures can create challenges for workers seeking to negotiate better terms and conditions and can undermine compliance with existing labour standards. This is particularly the case in liberal market economies, such as the UK, where the nature of corporate governance and employment laws make it difficult for unions and small businesses to resist the commercial pressures of retailers, franchise owners and other large firms at the apex of supply chains (Deakin & Koukiadaki, 2009). Similar pressures operate in the UK public sector where the introduction of market conforming principles has opened public services provision to private businesses. This has led to a significant reduction in labour standards and union protection (Rubery, 2015) and has deprived many low-paid women the right to access equal pay claims as outsourcing has eliminated potential male comparators (Deakin, et al., 2015; McLaughlin, 2014). Innovations in response to exogenous pressures come in the form of mechanisms that extend responsibility for upholding employment protections to 'lead firms' that purchase an organisation's products or services such as retailers and franchise owners. While these mechanisms are commonly associated with global supply chains and production networks (Anner, 2018) studies have shown how they can also be used to reinforce employment protections in the domestic context (e.g. Fine and Bartley, 2018; Weil, 2014; Wright & Brown, 2013). Supply chain regulatory mechanisms can include: international conventions that businesses voluntarily sign up (e.g. ILO conventions and the UN's Millennium Development Goals), business-driven voluntary initiatives such as codes of conduct, framework agreements negotiated with global or regional union federations that provide a baseline of labour standards for a multinationals' suppliers and subsidiaries (Niforou, 2012), and various legal instruments emanating from the national level, as well as from regional or international activity, including from the EU and ILO. These mechanisms are most often found among brand-sensitive organisations with an aversion to reputational damage (Wright & Brown, 2013).

Separation of the Management of Labour from the Control of Labour

The growth of intermediaries that separate the management of labour from the control of labour, such as labour hire contractors and employment agencies, is the fourth manifestation of the contraction of the traditional web of rules that we identify. This is closely related to the third factor discussed above, and the key difference relates to indirect versus direct control over the employment relationship. In some cases, an intermediary rather than the owner of a workplace legally employs temporary agency workers, and their employer thus differs from that of their directly employed colleagues who they may even work alongside (Gumbrell-McCormick, 2011; Heery, 2009). Another prominent example relates to the posting of workers and cases of 'social dumping' in the European single market, where employers have taken advantage of lower rates of pay and terms and conditions in one member state when employing workers who are engaged in a different member state (Barnard,

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2009; Colfer, 2019). As Rubery (2015) argues, the ramifications of this are significant, as 'employers, instead of being held accountable, have become increasingly invisible' (p. 639), which makes it increasingly difficult for workers to organise and to engage in collective action. This challenge is a pressing one, as many of the workers concerned are low paid, and are drawn from the already marginalised cohorts identified above, including: young workers, migrants, and other minorities including women, who often already have limited bargaining power. Institutional experimentation in this category can be seen in the creation of new statutory authorities or licencing schemes by government or other competent authorities and through regulatory initiatives created jointly between industry and organised labour (Davies, 2014; Gordon, 2016).

Replacement of the Employment Relationship

The fifth manifestation we identify is the emergence of entities that replace the employment relationship entirely. While the standard employment contract generally remains dominant in advanced economies (Adams & Deakin, 2014; Fudge, 2017), as noted above, online platforms associated with the gig economy that synthesise localised market-clearing mechanisms (Huang & Geelan, 2018; Wood et al., 2019) and contracting arrangements that produce 'dependent self-employment' (Taylor, Marsh, Nicol, & Broadbent, 2017) have become more common. The recent rise of the gig economy has been most notable in the food delivery and passenger transportation industries but is extending to other industries including aged care (see Chapter 6, this volume). Closely related to, but materially separate from, the gig economy is the practice of 'bogus', 'fake', or 'dependent' self-employment, which has long been a feature of construction and postal delivery but is on the rise in other sectors including higher education, research, and administrative services (Behling & Harvey, 2015; Moore & Newsome, 2018). Here, there is a debate as to the boundaries between the status of 'worker' and of self-employment. As the Taylor report in the UK notes, 'this is where there is greatest risk of vulnerability and exploitation' (Taylor et al., 2017, p. 32). When it comes to institutional experimentation in this category, social media has the potential to reduce collective organisation costs significantly by enabling the formation of networks and by reducing the need for bureaucratic organisations (Heckscher & McCarthy, 2014). Notwithstanding the limitations 12 Barry Colfer et al. acknowledged above, the ease by which workers can organise via social media networks has resulted in the emergence of extensive self-organised worker communities in the gig economy. Prominent campaigns by the likes of UNI Global. (2020) on workers' data rights and on the 'right to disconnect', which has been successfully legislated for in France, also provide examples of what can be done to strengthen the rights of workers in these environments. The task ahead for the representatives of government, labour, and business is to determine how to adapt the emergent patchwork of rules to protect workers from the new vulnerabilities created by, for example, employer extraction

and exploitation of their individual bio data, social media data and, not far off, their personal genome sequence.

Progressing Understanding

This volume surveys the various forms of institutional experimentation for protecting working conditions that have emerged in response to the contraction of the standard employment relationship and the corresponding rise of 'non-standard' forms of paid work across a range of settings, including in Australia, China, Europe, and New Zealand. This experimentation involves a range of actors, including trade unions, policy-makers, responsible employers, and community organisations. While the traditional web of rules remains strong in some parts of the workforce in many countries, a patchwork of rules made up of statutory regulation and determinations between individual workers and employers have been created and extended over recent years. The patchwork of rules which have emerged in place of the traditional web can come in the form of: joint regulation, voluntarist HRM and CSR mechanisms, statutory minimum standards, and institutional experimentation. Our main focus is the institutional experimentation within and between these webs, which manifests in response to the rise of non-standard forms of employment that can provide protection, in different ways and in different contexts, for those who engage in this work. Crucially, we aim to provide evidence of the existence of the patchwork of rules across the different cases and contexts explored in this book, while also considering the effectiveness of different rules and webs where they exist. It is important to note that we do not attempt to fully 'explain' the emergence of the patchwork, thereby identifying fertile territory for further analysis and research. Through our findings, we will argue that policy-makers, trade unions, social partners and researchers alike must understand how to adapt to the emergent patchwork to be able to fill regulatory gaps in employment protection and to protect workers from the new vulnerabilities created by employer extraction and exploitation. Ultimately, this inquiry holds opportunities for those seeking solutions to the contraction of the traditional regulatory model of employment and will be relevant to a broad academic and policy-oriented audience. Finally, various scholars have observed that the New Deal, a classic example of institutional experimentation designed in response to an earlier crisis of labour regulation, 'drew heavily on important ideas that had long been waiting in the wings', but which were not deemed necessary until the Great Depression (Arthurs, 2013; see also Kochan, 2018). As the world reels from the impacts of the COVID-19 pandemic, an entire reimagining of the role of the state and of our understanding of what constitutes 'essential work' is underway (Colfer, 2020; Harney & Collings, 2021; van Barneveld et al., 2020). Equally, this may allow for new forms of institutional experimentation. As the importance of the likes of delivery workers, transport workers, and carers for the functioning of the pandemic economy is more fully realised – many of whom are employed or engaged on non-standard contracts – the issues raised in this volume will only continue to gain salience in public discourse.

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The industrial relations discipline is changing and there has been growing attention to gender and race. It remains important to continue to broaden representation in research publications to bring a wider array of voices and perspectives to analysis and understanding within the discipline. In this volume we have sought to cover issues that reflect changes in industrial relations and the world of work by including chapters on gender inequality, migrant workers and gig workers in China. However, we are aware that we are four white, privileged, males editing this book which examines issues of labour market experimentation and non-standard forms of work. The make-up of the editorial team was pragmatic based on a sample of those who were schooled at Darwin College, University of Cambridge and had availability and willingness to contribute. Self-awareness of this issue is not on its own sufficient, and we hope our future work better reflects a field that has become more diverse and inclusive.

Outline for the Rest of this Book

This volume engages with this emergent patchwork of rules through a selection of theoretical and empirical contributions and international case studies which address calls to analyse diverse systems that can provide insights into the existing regulatory deficiencies for protecting workers (Las Heras, 2018; Wright, Wailes, Bamber, & Lansbury, 2017). Specifically, the following chapters examine how the emergent patchwork is affected by factors such as: migration, gender issues, supply chains, HRM, new forms of worker resistance, and how these relate to trade unions, collective action, and worker voice, as well as the global COVID-19 pandemic. To elucidate the types of contraction, manifestations, and examples of institutional experimentation that we identify, the remaining chapters of this book are grouped around four thematic subheadings, namely: international comparisons, campaigns, HRM, and issues relating to specific groups of workers. A brief summary of each chapter follows. In Chapter 1, Colm McLaughlin and Chris F. Wright examine the responses by trade unions in New Zealand, Australia, and Ireland to attempts to neoliberalise industrial relations policy since the 1980s. As liberal market economies with institutional environments either hostile to or unaccommodating of organised labour, these countries in many respects are situated at the front line of neoliberalism. Ideological and global economic forces have prompted governments and employer groups in these countries to challenge hitherto stable pluralist industrial relations systems. While all three countries have experienced varying degrees of liberalisation of their industrial relations systems, the extent to which institutions were transformed or dismantled differed in large part by the responses of unions. The chapter examines the strategies that unions in these countries have used to defend the traditional collectivist web of rules and bring about institutional experimentations to protect labour standards. In Chapter 2, Barry Colfer explores how the European project has contributed to the emergence of a patchwork of rules in the European context. This chapter sets out the development of the European Social Model (ESM) from its largely rhetorical origins in the 1950s through to the introduction of the Social Chapter of the Maastricht Treaty in 1992 and to its

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dismantling under the austerity agenda pursued by the European institutions in the wake of the post-2008 financial crises. The contribution assesses whether ESM – and the patchwork of rules – can be revived in the context of the EU's response to the COVID-19 pandemic, especially following the introduction of a limited form of burden-sharing through the bloc's COVID recovery plan. In Chapter 3, Colm McLaughlin examines regulatory experimentation in relation to gender equality and the gender pay and representation gaps, which have been significant public policy issues since at least the early 2000s. Business has strongly advocated for a voluntarist 'business case' for equality as part of their wider agenda to promote CSR, an approach that fits within the second web of rules. However, slow progress finally prompted governments to introduce legislative measures such as gender pay gap reporting and gender quotas. At the same time, the traditional web of joint regulation continues to be relevant with trade unions using equal pay litigation to challenge the historical undervaluation of work by low-paid women and negotiating new collective pay structures to deliver tangible benefits to low-paid women. Litigation by unions and 'no win, no fee' lawyers in the UK local authority sector is contrasted with activities by unions in the New Zealand care sector. The chapter reviews and compares the effectiveness of various policy mechanisms to improve gender equality outcomes and argues that the three webs are more usefully understood as complements rather than substitutes. In Chapter 4, Brian Harney exposes the limits of HRM in a new era of work with a focus on 'Bezonomics' and the 'Amazon Effect'. This chapter critically reviews the underlying assumptions underpinning the rise of HRM, not least its unitarist undercurrent, narrow emphasis on performance and limited incorporation of multiple stakeholders. The chapter uses Amazon as an exemplary case to illuminate these dynamics in practice and to offer a critical review of what constitutes a meaningful and successful organisation in this new era of work. The chapter concludes by detailing prospects for redress and institutional experimentation, including technological platforms.

In Chapter 5, Alex J. Wood uses McAlevey's mobilising/organising dichotomy to analyse the recent McDonald's mobilisation in the UK. Wood argues that this movement has had some impressive successes but that building on these requires greater organising activities. However, conventional trade union organising Introduction 15 techniques are unlikely to be successful in the hospitality sector. Instead, the approach of another low-wage worker movement, OUR Walmart, demonstrates how social media can be used not only to enhance mobilising activities but also to enable organising beyond the workplace. In Chapter 6, Cheng Chang and Wei Huang consider the shift from the manufacturing industry to the digital economy in China. The Chinese labour market has shifted rapidly in recent years, with factory workers increasingly being drawn into service and food delivery work in the gig economy. This chapter explores the connections between these phenomena and examines if the unsustainable model of low wages in the manufacturing sector is a key explanatory variable for worker turnover. It considers why and how workers

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change jobs. Drawing on case studies that focus on the labour process dichotomy and surveys, two possible explanations are identified. First is the decline in employment in manufacturing due to a simple 'labour shortage'. Second is the solidification of a dual labour market arising from the government's Hukou household registration policy and the invisible controls in the gig economy that constrain workers' career development. In Chapter 7, Chris F. Wright, Kyoung-Hee Yu, and Stephen Clibborn assess how collaborative institutional experimentation has been used to address the exploitation and marginalisation of migrant workers. Migrant workers are often concentrated in segments of the labour market characterised by low paid and insecure work and which fall outside of the traditional 'web of rules' providing workers with protections. Institutional experimentation provides an opportunity to rectify this. This chapter examines the reasons why migrant workers are often subject to exploitation and marginalisation in the labour market. It then analyses the roles of the three main actors with the capacity to protect and improve migrant workers' labour market position: governments, trade unions, and community organisations. It proposes a 'co-regulation' approach based on collaborative institutional experimentation between these actors as the most effective way of addressing the exploitation and marginalisation of migrant workers. In Chapter 8, Aristeia Koukiadaki investigates the impact that global supply chains have had on the web of rules. The organisation of production across chains or networks of firms, rather than within vertically organised firms, has proliferated in the form of outsourcing, joint ventures, public-private partnerships, and widespread engagement of suppliers and subcontractors. There is now substantial evidence to suggest that these processes have 'fissured' workplaces and created an environment that is conducive to worker exploitation. The organising of production along supply chains places pressure on occupational health and safety, wage levels, and working time and contributes to the undermining of freedom of association and collective bargaining. This is especially the case in respect of global supply chains as these transcend national regulatory boundaries and the existing webs of rules regarding labour standards. Against this context, the chapter reviews and critically assesses the evolution of the private, state-led, and international regulatory responses to the globalisation of supply chains and the fissuring of production. In the concluding chapter, we draw together the various contributions, review the evidence that we have presented, and develop some of the broader implications 16 Barry Colfer et al. of our findings for public policy, while reflecting on how this builds upon Willy Brown's work. This allows us to review the unique circumstances relating to the global health pandemic and other enduring and emerging challenges and how these relate to our analysis. We return to our central objective of this book of identifying and analysing the viability of various institutions for addressing these challenges and discuss how these might form the basis of a new web of rules for protecting labour standards in the future.

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