

EDITED BY
Colin Fenwick
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International
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Organization

Regulating for Equitable and Job-Rich Growth



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Preface

This book goes to print some ten years after the Financial Crisis and the onset of what in some parts of the world was considered a Great Recession. In the years immediately after the advent of the crisis, intense debate continued about the impact of labour regulation on labour market outcomes. This happened in particular because many countries pursued austerity policies that involved not only fiscal measures but also changes to labour market regulation. The recipe was generally the same as that promoted by some academic and institutional sources for some years before the onset of the crisis, and derived from orthodox economics.

The impact and the prevalence of arguments for deregulatory policies for labour markets were in large part the impetus for the establishment of the Regulating for Decent Work (RDW) Network. The Network brings together scholars from different disciplinary perspectives, and from all parts of the globe, to examine the effects and the nature of labour regulation. A central RDW concept is that labour regulation, and the social world that it seeks to shape, are assumed to be both complex and unpredictable, with no necessary direct or linear impacts, relationships or phenomena. The contributions in this volume are very much in keeping with the assumptions, goals and methods of the RDW project. The contributions shed important light on the conceptual ambiguity that besets key aspects of debate about labour market regulation and its impact, most especially the complexity of the notions of formality and informality. They call into question how accurately we measure key phenomena and whether we have the data necessary to devise effective policy, whatever its orientation. They draw attention to the heuristic devices and social practices that lead either to exclusion or inclusion, as well as to the challenges of largely linking effective social protection to the standard employment relationship. In the broad, the chapters remind us that while the impact of labour regulation in practice may not be precisely known in advance, there remains nevertheless an essential role for carefully calibrated state (and private) labour regulation. This is particularly true for the groups who feature in many chapters of the book, and who are regularly among those most excluded from labour markets and from effective protection: migrants, women and younger workers, for many of whom work is informal and/or in agriculture.

The publication of the volume has taken time, but we are nevertheless confident of the continuing originality and relevance of the research and the arguments presented. In this respect, it bears remarking that in recent years we are perhaps able to detect some important shifts in the positions of key global actors and institutions towards perspectives on labour regulation that might be considered more consistent with the approaches presented here. We as editors are deeply grateful to the whole group of contributors for their patience and persistence in the project.

The patience and ongoing support of the ILO Publishing unit were also essential to the finalization of this project. We thank Chris Edgar, Alison Irvine and Charlotte Beauchamp for this, and for their continual good humour. We also owe a particular debt of gratitude to our co-publisher, Edward Elgar. At the ILO, both Raymond Torres and Moussa Oumarou gave us (jointly and severally, and at different times) the space to pursue the work required to publish this book. Our final thanks go to our colleague in the Labour Law and Reform Unit, Tvisha Shroff. Her role in the final months was as significant as it was effective. Her collegial and conscientious administrative, editorial and research assistance were essential in getting this book published.

1. Labour market regulation and the imperative to stimulate job-rich growth*

Colin Fenwick and Valérie Van Goethem

This collection of chapters has its origins in the activities of the Regulating for Decent Work (RDW) Network. Founded in 2008, the RDW Network is a collaboration between researchers at the International Labour Organization (ILO), the Centre for Employment and Labour Relations Law at Melbourne Law School, and academic and policy institutions from across the world. The project is interdisciplinary, and involves researchers from a range of fields including economics, law, sociology and industrial relations.

The aim of the RDW Network project is to examine and, where possible, respond to the arguments against labour regulation that have dominated employment policy in many forums, and in many countries, in recent years. The project also aims to advance research and policy directions tailored towards making labour market regulation more effective. To this end, it questions whether the goal of improving working life can be advanced through legal regulation, and whether carefully designed labour regulation and enforcement mechanisms may be a more promising avenue for future social and economic progress than a simple retreat from labour regulation, whether public or private.

Section 1.1 of this introductory chapter briefly outlines the RDW Network project, and situates it in the context of wider literature that examines the operation and effect of labour regulation, although largely not from an economic perspective. Section 1.2 surveys developments at the global level, identifying an emerging consensus that labour regulation per se is neither negative nor positive for economic and social outcomes: balanced regulation is what is essential, and is what should be sought. Section

* The views expressed here are those of the authors, and do not represent the views of the International Labour Organization or the International Labour Office.

1.3 provides an overview of the contributions in this volume, and section 1.4 concludes.

1.1 REGULATING FOR DECENT WORK AND THE EVOLUTION OF THE UNDERSTANDING OF LABOUR REGULATION

The RDW Network was established, in large measure, as a way to stimulate analysis and research in response to the continuing influence of orthodox economic theory in policy debate over the effects of labour market regulation. It ‘was established with the goal of nurturing efforts to fashion a coherent response to the deregulatory agenda in its contemporary guise’ (Lee and McCann, 2011a: 4). In this sense, a key objective was ‘to feature innovative ideas and approaches, new subjects and debates, and theoretical perspectives and methodologies that characterise contemporary research on labour market regulation’ in order to propound ‘an international and interdisciplinary response to the most influential account of the role and significance of labour market regulation, namely that derived from orthodox economic theory’ (Lee and McCann, 2011a: 1). The project sought, among other things, to contest the rise of large-scale use of quantitative measures of the effects of labour market regulation. It did so because their increasing use had the effect of broadening the scope of the deregulatory narrative derived from orthodox – or neo-classical – economic theory (both in terms of topics and in terms of countries), while simultaneously reducing the efficacy of the analysis, and therefore the strength of the arguments built upon it (Lee and McCann, 2011a: 3). Paradoxically perhaps, the rise in the significance of quantitative measures has not always been matched by an equivalent increase in the robustness with which they are constructed (Cazes and Aleksynska, 2014).

A key pillar of Lee and McCann’s argument was the proposition that a proper analysis of labour market regulation ought also to take into account its potential benefits. These might include: operating as a tool to pursue the public good of more and better jobs; building a platform for stable working relationships that can therefore be more functionally flexible and responsive to external shocks; and serving as an effective means to address economic coordination challenges (on the last of these compare, for example, Deakin, 2011). Moreover, a fair analysis of labour market regulation and its effects should take account of long traditions in other disciplines: some of these emphasise its significance as a conduit for social values; others point to the indeterminacy of regulation in practice, and the relative uncertainty that surrounds the question of how actors in

the relevant ‘regulatory space’ (Morgan and Yeung, 2007: 59–68) interact with each other and with the regulatory scheme itself. In short: quantitative assessment alone of the purported economic effects of any regulatory measure is unlikely to address whether states have the capacity to implement effectively the regulation that they adopt.

Later, the project focused more specifically on the need for the analysis of labour regulation to do more to account for regulatory indeterminacy, that is, ‘to elaborate with more precision the pressures that drive and underpin regulatory indeterminacy’ (Lee and McCann, 2014: 6). That indeterminacy might derive from a number of possible sources, such as exclusion from legal frameworks, and the fragmentation that is characteristic of what David Weil christened the ‘fissured’ workplace (Weil, 2014a, 2014b). Again, a key goal was to draw on a range of disciplinary perspectives, in order to problematise the perceived dominance of understandings of the effects of labour market regulation based on orthodox economic theory. The addition – to economics – of traditions in social science and labour law (among others) served to bring into focus the constant evolution of business organisation, and the complexity of the legal notion of employment (Lee and McCann, 2014: 12). This in turn brought into focus not only the indeterminacy but also the dynamism of regulation in practice. Thus, for example, wage regulation could be seen to be externally dynamic in its impact on informal markets and practices not otherwise strictly caught. Labour regulation should also, however, be understood as exhibiting internal dynamism: that is, being characterised by unpredictable interactions. As Lee and McCann emphasise: institutional dynamism could be ‘both a significant component of regulatory indeterminacy and a gateway to improved protective outcomes’ (Lee and McCann, 2014: 13). Hence the value in considering the interaction of minimum wage regulation with poverty rates, and collective bargaining as a means of setting wages above a statutory minimum. This in turn highlights the need to take an institutional perspective: that is, to see minimum wage regulation (for example) as only one of a number of institutions in an industrial relations system, each of which interacts with others.

The RDW Network project also draws on the growing literature on how labour regulation is implemented in practice by state agencies; that is, how states operate within regulatory frameworks to promote compliance with regulatory requirements. For these purposes, the RDW Network ‘situates research on enforcement and implementation of labour standards within the quest to clarify the components of regulatory indeterminacy’ (Lee and McCann, 2014: 19). Among other things, this serves to draw attention to the interaction of public and private regulation, and/or of hybrid models of regulation (see, e.g., Dupper et al., 2016; Locke, 2013; Amengual, 2010;

Kolben, 2007), taking into account the growing consensus ‘that hybrid initiatives support the implementation of legal standards’ (Lee and McCann, 2014: 24).

Indeed the literature on the operation of regulation in practice – and particularly the literature on labour regulation in practice – is extensive, and spans a range of disciplines including regulation (and/or ‘new governance’) theory, industrial relations, political economy, political science, labour law and global labour studies. The literature examines many facets of the enterprise and the operation of labour regulation. It explores the drivers of non-compliance, including motivational factors (e.g., Kagan et al., 2011); the impact of structural, political, social and economic dynamics (e.g., Howe et al., 2014); the relative state of knowledge of regulatory requirements (e.g., Winter and May, 2001); and the relevance of firm and industry dynamics, size and structure (e.g., Wright et al., 2004). There are studies that consider the ‘architecture’ and day-to-day operation of regulation, including the design of regulatory frameworks, with particular consideration to the relative allocation of authority and responsibility for enforcement as between the state and private actors (e.g., Malmberg, 2009; Morgan and Yeung, 2007). Other studies address the goals, resources and internal organisation of regulatory agencies (e.g., Weil and Pyles, 2005). Some studies explore the management and work of front-line regulatory agents themselves. This literature explores the structure of regulatory mandates (e.g., Pires, 2008); the level of professionalisation of front-line regulatory agents and their scope to exercise individual discretion (e.g., Piore and Schrank, 2008); the use of record-keeping systems and the collection and management of data (e.g., Milena Galazka, 2015); and the way that regulatory agents themselves measure progress towards compliance by those subject to regulatory requirements (e.g., Weil, 2010).

A significant body of literature considers the ways in which regulatory agencies plan and target their compliance actions and sanctions. This literature explores the range of enforcement approaches and strategies, including whether regulators emphasise deterrence or compliance, and the extent to which they engage in strategic enforcement (e.g., Gunningham, 2011). The literature has developed new typologies to conceptualise different approaches to regulation in practice, including ‘responsive regulation’ (e.g., Bluff and Johnstone, 2003); ‘smart regulation’ (e.g., Gunningham and Grabosky, 1998); ‘risk-based regulation’ (e.g., Black, 2005: 512); and ‘really responsive’ regulation (e.g., Baldwin and Black, 2008). Some studies explore how agencies plan and target the detection of non-compliance, exploring the extent to which they emphasise response to complaints (e.g., Gellatly et al., 2011), compared with their use of proactive detection strategies (e.g., Howe et al., 2014). Still others examine the

range and the use of different options for resolution and for sanctioning of regulatory non-compliance. These studies consider the relative merits, and the predilection of different agencies to use civil litigation and/or prosecution (e.g., Hardy et al., 2013); cooperative approaches to enforcement compared with the use of sanctions (e.g., Howe et al., 2014); the application of administrative sanctions (e.g., Vega and Robert, 2013); and the use of preventive measures and techniques to achieve voluntary resolution of non-compliance (e.g., Hardy and Howe, 2013).

1.2 LABOUR REGULATION AND THE GLOBAL FINANCIAL CRISIS: AN INTERNATIONAL PREOCCUPATION

As it happens, the RDW Network project was launched, and has continued, more or less in parallel with the global financial crisis of 2008–09 and its after-effects. Nearly ten years after the onset of the crisis, the world continues to experience rising unemployment, precarious work, inequality, and pressure on collective bargaining. All of these threaten economic and social stability in many parts of the world. Unease over the austerity agenda pursued in many countries is accompanied by a growing recognition that the post-crisis world should not return to ‘business as usual’. Rather, more effective and balanced models should be adopted, which would integrate employment creation in growth policies and meet equally important objectives: equity, security and job quality.

While emerging and developing economies seem to have escaped the brunt of the recession, the debate continues on how to extend labour market institutions into the informal economy, with a focus on particularly vulnerable groups. The vast majority of the workers in the world are working at or beyond the margins of formal regulation. Workers in many cases are excluded from the formal scope of employment and labour regulation, either because they work in small enterprises that are exempt from application of the law, or because they are engaged in particular forms of work that are excluded, such as domestic work. Even when formally covered by employment and labour regulation, many workers can effectively be rendered informal because of the weaknesses of labour administration and inspection systems. In some societies, the capacity to exercise rights within labour regulation frameworks may depend on class, cultural norms, family structures and religion. At the same time, changes in the ways that workers are contractually engaged continue to lead to greater labour market segmentation, which is associated in turn with more workers being engaged in insecure work and, in some cases, informality.

Thus, both the initial shock and the continuing impact of the crisis continue to serve as the framework for much of the analysis of the purpose, role and effects of labour regulation, in both academic and policy-making circles. As noted, a particular preoccupation has been the desire and need to find ways to return to pre-crisis levels of economic growth, and with it, pre-crisis levels of job creation. Not surprisingly, international organisations have been active in trying to identify policy experience that can provide examples of how to address these manifold challenges. Quite naturally, the ILO has paid significant attention to these issues. The ILO has addressed the role of jobs in development (ILO, 2014), the ‘jobs gap’ – that is, the number of jobs that would have been created in the time since the crisis, had job creation continued at the same rate (ILO, 2015a) – and the spread of ‘non-standard forms of employment’ (ILO, 2016, 2015b). Similarly, the ILO has turned its attention to ‘the changing nature of jobs’, examining the relationships between jobs, incomes, poverty and social protection, and also the role of labour regulation in employment generation (ILO, 2015c).

During the same period, the World Bank has examined in depth the role of jobs in development. In this context, the Bank summarised its findings on the effects of labour market regulation in this way: ‘Estimated effects prove to be relatively modest in most cases – certainly more modest than the intensity of the debate would suggest . . . Overall, labour policies and institutions are neither the major obstacle nor the magic bullet for creating good jobs for development in most countries’ (World Bank, 2013: 258). More recently, the Bank has developed a policy advice manual on how to balance labour regulation with the importance of promoting job growth, in which it noted that labour regulation is essential for the protection of fundamental human rights, and also that it:

can correct imperfections in labor markets resulting from inadequate information, uneven bargaining power, limited ability to enforce long-term commitments, or insufficient insurance mechanisms against employment related risks. Thus, labor regulations can, if well designed, avoid inefficient and inequitable labor market outcomes and have an important role to play in any country. (World Bank, 2015: vi)

Moving beyond jobs per se, the 2015 *World Development Report* examined the contribution of work to human development, taking a broad view of work so as to capture work beyond jobs, including for example care work and voluntary work. The report concluded that work can be positive for human development, ‘when policies expand productive, remunerative and satisfying work opportunities, enhance workers’ skills and potential and ensure their rights, safety and well-being’ (UNDP, 2015: 1). From

a human development point of view, the report argued that ‘[l]egislation and regulation are critical for the protection of millions of workers who are engaged in activities that damage human development or who are involved in high-risk work’ (UNDP, 2015: 161). In the same year, the ILO adopted its Transition from the Informal to the Formal Economy Recommendation (No. 204). Many of its paragraphs presume that regulation is necessary, and that its effects can be positive, provided an appropriate balance is drawn (ILO, 2015d).

As the *World Development Report* noted (UNDP, 2015: iv), it was published just after the United Nations adopted the Sustainable Development Goals for the period 2015 to 2030 which include, as Goal 8, a global commitment to ‘Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all’ (UN, 2015: 21). Within this Goal, Target 8.5 is to ‘achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value’ (UN, 2015: 22).

For its part, in recent years the Organisation for Economic Co-operation and Development (OECD) has developed a Jobs Quality Framework, which combines measures of earnings and inequality, security of employment, and the working environment (examined for these purposes from the perspective of working hours). Finding that higher job quality is correlated with higher employment rates (in better-performing economies), the OECD therefore argues that carefully chosen labour market and social protection policies – that is, labour regulation – ‘should not be viewed as a necessary drag on job creation’ (OECD, 2015: 18). The International Monetary Fund (IMF) has also cautiously acknowledged that reforms to labour market regulation may not necessarily achieve improved employment outcomes, and indeed may be counter-productive, especially if poorly sequenced relative to the prevailing economic cycle (IMF, 2016: 116–17). In the context of the debate on the causes and consequences of inequality, the IMF has also acknowledged both, that inequality may be harmful for economic growth in the long run, and that redistributive policies – that is, labour regulation – are generally not incompatible with economic growth (Ostry et al., 2014). This, in turn, is in keeping with broader literature on how and why inequality may harm countries’ economic performance, and on the corresponding benefits of labour market institutions as means to address inequality (e.g., Berg, 2015).

1.3 REGULATING FOR EQUITABLE AND JOB-RICH GROWTH

This volume – *Regulating for Equitable and Job-Rich Growth* – builds on the debate and discussion that took place during the 2013 RDW Conference. As the title suggests, that conference centred on the role of labour market regulation as a policy tool to promote job creation. (Within the discipline of labour law, some scholars have addressed this issue over quite a period of time: Howe, 2008; Biagi, 2000.) The conference was organised around four themes: (1) comparing and evaluating labour regulation systems; (2) regulating informal work; (3) industrial and employment relations for inclusive growth; and (4) new patterns of labour market segmentation and new challenges for promoting inclusive labour markets. Based on a selection of papers from the conference, when taken together the chapters in this volume argue that effective and efficient labour market regulation can contribute to achieving the key policy goals of the formalisation of employment and inclusive labour markets, while also pursuing equitable distribution. In comparing the concerns, concepts and methodologies of various academic disciplines to the complexities of labour market regulation, the volume focuses on countries and regions of diverse socio-economic contexts and institutional traditions. The contributions to this volume confirm the importance of comparative international research, which lies at the heart of the RDW Network project.

Part I of this volume ('Introduction') is concerned with the ways in which the global financial crisis increased labour market segmentation. Access to stable employment has fallen, while at the same time the numbers of both the unemployed and those employed in new forms of less protected employment have grown. Against this background, this part of the book aims to articulate the broad goals of labour market regulation and its potential to contribute to inclusive development. It also considers the limits of some current developments in regulation and governance. It investigates new challenges for promoting inclusive rather than exclusive labour markets, focusing on the implications of changing patterns of labour market segmentation and polarisation for social cohesion and inclusive labour markets.

Chapter 2 (Jill Rubery: 'Reregulating for inclusive labour markets') builds on the assessment that the crisis, together with the austerity policies that were introduced in many countries, have increased labour market segmentation and inequality. Rubery argues that the expansion of non-standard forms of employment, the increasing exclusion of young people, and the pressure on those without wage work to accept poor working conditions, necessitates a complete reinvention and recasting of

employment and social regulation. In Rubery's view, this evidence of a growing *precariat* (compare Standing, 2014, 2011) has drawn attention to growing inequalities, and at the same time given new life to insider/outsider debates. Rubery draws on a range of key contributions to the literature (Vosko, 2010; Freedland, 2013; Standing, 2011; Lee and McCann, 2014, 2011b) to develop her understanding of the insider/outsider debate and its influence. She draws as well on segmentation theory, gender analysis, and recent work on interactions between regulation and institutions. She then shows that the insider/outsider perspective is not limited to its traditional home in mainstream economics: it is also used by those calling for significant reforms to reduce inequalities. From this point of view, the main problem is the growth in dualism, that is, the result of the sharply decreasing number of workers covered by traditional employment regulation, and the social protection associated with the standard employment relationship (SER).

Subsequently, Rubery identifies four main issues that require reform and renewal of regulation of employment and social protection: first, the increasingly narrow scope of employment and social protection in many countries; second, the difficulty in identifying and effectively regulating the responsible employer (compare Prassl, 2015); third, the lack of value attached to unpaid care work; and fourth, the increasing deprivation of human rights for those working at the margins. Rubery calls for a large and coordinated approach to reform that is capable, both of devising stronger forms of protection for those in precarious jobs, and of developing policies likely to limit or reverse the trend to precarious employment. She argues for a wide agenda of reforms that would be incremental and evolutionary, to reflect myriad differences between countries, and to avoid feeding the impetus for deregulation. The argument here is that holding employers to account must be central to any reform agenda. In Rubery's view, rather than more flexible employment, policies are needed that would extend and reinforce the SER, together with new, higher legal minimum standards and mechanisms to reduce the penalties for not being on an SER-type contract. To this end, she presses not only for creating new rights but also for empowering workers and for promoting implementation and monitoring of rights and of regulation. Rubery suggests three key tracks for her proposed strategy: (1) disentanglement of social rights and protections from employment status; (2) extension of rights at work to non-standard and marginal workforce groups; and (3) promoting transparency in employment arrangements to facilitate monitoring and pressure for fair treatment.

Against this background, Rubery's case for a more nuanced and multifaceted approach to reform is developed in four stages. First, she starts

with a review of current academic debates calling for reform from a wide range of disciplinary perspectives. Second, she singles out broad principles for reform along three lines of action, namely: reforming social policy, extending employer obligations, and strengthening enforcement and monitoring. Third, she lays out what a reform programme for inclusive labour markets might entail, while emphasising that a progressive reform agenda needs to be distinguished ‘from the pervasive and potentially insidious insider/outsider rationale’. In her conclusion, she considers the contribution of these proposals to the long-term objective of providing the necessary political impetus for progressive regulatory reform. Here she also emphasises the need to pay attention to the potential of new compliance mechanisms such as transparency requirements, advocacy and raising public awareness on fundamental rights and minimum standards, and developing accountability and governance principles across supply chains.

Chapter 3 (Leah F. Vosko, John Grundy and Mark P. Thomas: ‘Beyond new governance: Improving employment standards enforcement in liberal market economies’) explores how the crisis in employment standards enforcement has provoked increased experimentation in liberal market economies with new instruments to improve workplace regulation. Vosko et al. consider in particular the impact of the influence of ‘new governance’ theory in regulatory practice. For them, this implies that a wide range of policy measures – from those aimed at preventing violations of workplace regulations, to complaint-handling processes and alternative dispute resolution mechanisms – are introduced at all stages of the enforcement process. The authors reflect on the long-run effects of changes in methods of production on how work is structured, particularly in common law jurisdictions. Taken together with legislative deregulation and declining rates of unionisation, the outcome is growing precarious employment. Against this background, the authors explore the operation of reforms in four distinct jurisdictions, and question whether the impact of ‘regulatory new governance’ (RNG) has been positive in practice. The authors focus on four high-income liberal jurisdictions – Australia, California, Ontario and the United Kingdom – that have historically been characterised by extensive employment regulation, and which are each confronted with similar issues in seeking to find a balance between fostering flexibilisation and maintaining a base of labour protection.

Vosko et al. observe that RNG is not ‘a homogenous set of practices’. Rather, RNG covers a range of mechanisms and arrangements that are designed to advance more flexible regulatory regimes. The authors argue, however, that ‘certain prominent RNG arrangements display an over-reliance on “soft law” mechanisms’. In their view, such arrangements do not sufficiently acknowledge the role of state institutions and ‘hard

law' mechanisms, and therefore they fail to take adequate account of the power dynamics of the employment relationship. Thus, in practice they risk further undermining employment rights, particularly for precarious workers.

The argument has three main pillars. First, the authors outline the main principles that are inherent in RNG-based reforms in relation to employment standards enforcement. Here, they focus on two principles that have significant implications in terms of contributing to regulatory degradation, namely: (1) the plurality of enforcement mechanisms, particularly the use of 'soft law' and self-regulation; and (2) the involvement of multiple actors in RNG-based reforms and the related dispersion of authority. Second, they investigate the scope and significance of these two principles through a survey of enforcement mechanisms that demonstrate the influence of RNG on employment standards in the four selected common law jurisdictions. In each case, they consider three general stages of employment standards enforcement that are common to the four jurisdictions, namely: (1) pre-emptive measures to prevent violations; (2) complaint handling process; and (3) claims resolution. The authors argue that their examples show that RNG reforms, which de-centre state regulation and put the focus on voluntary, 'soft law' and 'multi-party regulatory strategies' may help to fuel the underlying crisis in enforcement of employment standards.

Vosko et al. advance three normative principles in order to better secure the regulatory protection of workers in precarious situations. In their view, these normative principles should help to balance traditional regulatory models with some of the more promising elements of RNG. The first principle is to maintain a prominent role for 'hard' enforcement mechanisms. The second is to augment workers' voices across all stages of the enforcement process. Finally, the third normative principle is concerned with the engagement to develop meaningful participatory structures. Thus, Vosko et al. point a way towards devising reforms that can be appropriately tailored to the context, but without the risk of abandoning the impact and the use of law as a means of regulation.

Part II of this volume ('Labour Market Regulation and Vulnerability') addresses the needs of key groups that often remain at the periphery of labour markets, and of labour market regulation: girls and young women workers, migrants and home care workers.

Chapter 4 (Maarten van Klaveren and Kea Tjijens: 'Assessing the scale of women's informal work: An industry outlook for 14 developing countries') considers the difficulty of assessing the scale of informal employment from a gender perspective, given the weaknesses in national studies and statistical data. Van Klaveren and Tjijens present evidence from a trade union project, Decisions for Life (DFL), aimed at empowering adolescent

girls and young women in work in 14 countries. The study focuses on industries with a large share of women workers, in particular agriculture, wholesale and retail, and hotels, restaurants and catering (tourism). The study covers large states: Brazil, India and Indonesia; Commonwealth of Independent States (CIS) countries: Azerbaijan, Belarus, Kazakhstan and Ukraine; and southern African countries: Angola, Botswana, Malawi, Mozambique, South Africa, Zambia and Zimbabwe. The authors argue that an industry perspective is both necessary and useful, because labour allocation mechanisms are determined by industry structures. Moreover, employment prospects tend to vary greatly across industries, due to the diverse competitive structures, as well as to technological development at the industry level. Finally, the authors emphasise the extent to which working closely with workers' organisations was an important element in the DFL project. In addition, in most of the countries under consideration, trade unions were predominantly organised along industry lines. Drawing on ILO research showing the significant correlation between the incidence of informal employment and indicators of poor job quality (ILO, 2014), van Klaveren and Tijdens focus on the position of women workers in the shift from agriculture to services, and in particular to commerce. They observe that the large numbers of women working in the informal economies of the countries under scrutiny are largely or totally beyond the protection of some labour market institutions such as social dialogue and collective bargaining, minimum wage setting and labour inspection.

Van Klaveren and Tijdens argue that better employment data at country and industry levels is needed to clarify the prospects and problems of particular categories of workers, and that this would be especially useful if combined with industry-based evidence. In their view, socio-economic policies aimed at decent work and a decent living, inclusive of the interests of women, cannot plausibly be developed without adequate statistics that capture their large contribution to the informal economy. As a starting point, Van Klaveren and Tijdens use the work done by the International Conference of Labour Statisticians (ICLS) to untangle the difficulties of addressing the issue of the informal economy from a statistical perspective (ILO, 2012). They review the various attempts made in the past decade to define, and subsequently to measure, informal employment. Moreover, on the basis of extensive comparative statistical data for the countries under analysis, the authors question the exclusion by the ICLS of agriculture as a sector from the definition of the informal economy. They argue, by contrast to other authors such as Charmes (2012), that this kind of exclusion is likely to impede efforts to get a full picture of the situation for women in developing countries. Van Klaveren and Tijdens depict in detail the statistical consequences of excluding

agriculture from employment data for the 14 countries under consideration, with a particular focus on women's employment. They conclude that the consolidated national statistics pertaining to labour forces contribute only partially to grasping the possibilities and constraints facing women in agriculture in their struggle to attain a decent living. Van Klaveren and Tijdens infer from this that better employment data at country and industry levels are required to clarify the issues and the prospects of specific worker categories.

Chapter 5 (Mark Freedland: 'Regulating informal work at the interface between labour law and migration law') reflects on the many points where migration law impacts on labour law's regulation of labour markets and of employment relations (compare, e.g., Crock and Friedman, 2006). Freedland's conceptual framework is grounded in the observation that the failure to observe certain kinds of regulation can contribute to the informality of work. Thus, informal work is the epi-phenomenon to 'formal' regulation. On this analysis, the failure to observe formal regulation in the area of migration law leads to the 'undocumented worker' or 'illegal immigrant' typology. To further illustrate the concept, Freedland identifies and considers two other examples: the failure to observe formal regulation in the field of labour law and collective bargaining leads to the 'sweatshop' typology, while the failure to observe formal regulation in the related fields of tax law and social security law leads to the 'black economy' typology.

Freedland develops three interconnected arguments about the regulation of informal work to show that the very notion of informal work is itself both 'analytically and normatively fragile'. The first is the 'imprecision argument'. Freedland argues that the application of migration law is deeply complex, and not at all clear-cut: it is simply not easy to determine whether a non-national may lawfully engage in work. This in turn illustrates how there is no precise line between formality and informality. The second is the 'normative ambiguity argument'. The starting point here is the simple observation that the policy goal of migration law is not protection of the migrant *qua* worker, but rather protection of the national labour market and of those workers who are lawfully entitled to participate in it. Thus, the migration law-generated model of work by 'undocumented workers' contains within it especially strong connotations of culpability on the part of these workers themselves. This in turn leads to uncertainty about whether regulatory protection should be extended to these workers: rather, they are constructed as less 'deserving' of regulatory protection, and in fact seen to be more justly susceptible to regulation which penalises them. In Freedland's view, this normative ambiguity stands in at least partial contrast to tax and social security law: in those

fields, culpability for the informality of work would far more frequently be attributed to the employer or employing organisation. There is an even clearer contrast with labour law: here it would be counter-intuitive at best to treat the worker as primarily culpable for failure to observe labour standards.

Freedland's third argument, albeit one he advances far more tentatively, is the 'argument for inclusiveness'. As he makes clear in his concluding section, his starting point is 'a conviction that there are great dangers in allowing labour law's regulation to falter and fall short in the difficult or "informal" territory where it is in fact most needed'. For Freedland, a consideration of migration law and its interaction with labour regulation brings into focus both, the different roles, and the pervasive impact of the concept of criminality that is characteristic of the field. The migrant worker who works informally, the person or enterprise that engages them, and the person or enterprise that facilitated their entry to the jurisdiction: all may be criminally culpable. Freedland points to the decision of the Supreme Court of the United Kingdom in *Hounga v Allen*¹ as illustrative of how his argument for inclusiveness might be applied in practice. There the Supreme Court decided that an illegal immigrant could proceed with her claim for enforcement of basic labour rights. Rather than operating as a bar to bringing proceedings, as the Court of Appeal had held,² the claimant's immigration status was considered merely the 'context'³ in which the abuses of which she complained had taken place. Here then, can be seen, in Freedland's view, an appropriate way of resolving a normative ambiguity between how labour law and migration law each regulate the sphere of informal work.

Freedland concludes by considering how the ambiguities and conceptual lacunae he has identified are evident in both the ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) and also a report of the EU Fundamental Rights Agency: *Severe Labour Exploitation: Workers Moving Within or Into the European Union* (FRA, 2015). He chooses these as two recent examples of supra-national articulation of regulatory policy, each concerned in some way with the regulation of informal work in the context of labour migration. He hastens to add that his purpose is not to 'denigrate' these efforts, or those who crafted them. Rather, he does so to illustrate further the inherent difficulties that face any effort to regulate effectively for the application of labour

¹ [2014] UKSC 47.

² [2012] EWCA Civ 609.

³ [2014] UKSC 47 [40].

standards in the informal economy, and especially where regulation of labour migration is also involved. His concern is rather to point to how, in part, the informal is constructed, and to the danger in overlooking how normalisation of the informal can also serve to normalise the existence of a sphere of work beyond labour regulation.

Chapter 6 (Sara Charlesworth: 'Partial protection? The regulation of home care workers' working conditions') examines the way in which the marginalisation of home care work is shaped by the regulatory context in which working conditions and wages of home care workers are defined. Charlesworth's chapter explores the Australian case, as an illustration of the national and international contexts that inform how home care work and employment regulation are constructed. Recalling that home care workers fall into the definition of 'domestic worker' set out in Article 1 of the ILO Domestic Workers Convention, 2011 (No. 189), Charlesworth explores two specific questions. The first relates to the historical and regulatory processes that gave rise to the current working conditions for home care workers (and their impact). The second question addresses the potential of employment and labour regulation to tackle the marginalisation of home care workers. Drawing on substantial literature (including Fudge, 2012; Freedland and Kountouris, 2013), Charlesworth starts by recalling that: '[i]n the world of paid employment, home care work is distinctive in that it trespasses not only the boundaries between the informal and formal economies but also those boundaries between market work and family work, and between public and private spaces'. Home care work therefore shows how the categories of formal/informal and regulated/unregulated, while often posed as static, are nothing of the sort. Only by moving beyond them can we properly understand how employment conditions for home care work are produced.

Charlesworth explores the historical and regulatory processes that have led to the prevailing working conditions for home care workers in Australia. To do so, she draws on a census and survey of aged care providers and aged care workers, including in community-based settings. She examines the federal Social, Community, Home Care and Disability Services (SCHCDS) Industry Award 2010 that provides sector-specific minima for the majority of home care workers. She also reviews the 2012 Equal Pay case, run under the SCHCDS Award, which showed how home care workers can easily be excluded from rights claims under the Award. Drawing on a number of sources (e.g., McCann and Murray, 2014), Charlesworth explores how in Australia – as elsewhere – government policy has promoted a market for home care work, while at the same time employment regulation has persisted in seeing this form of care work as exceptional. In her view, the situation is exacerbated by the type of work

that home care workers do, by the difficulties in estimating the number of home care workers in the formal economy, and by the effective exclusion of home care workers from some labour regulation because so many of them are engaged as casual employees.

Charlesworth acknowledges the increased regulatory recognition of home care work as 'work' over time. However, in her view this recognition continues both to be partial, and to be shaped by shifts in both directions along the in/formalisation continuum. In particular, Charlesworth singles out three main shifts that, in her view, have 'contributed to the incomplete process of the regulatory recognition of home care work as "work" and, for many home care workers, a move backwards on the in/formalisation continuum'. These shifts include: (1) 'the increasing contracting out of home care services including requirements in some states for the compulsory tendering of local government services'; (2) 'the structural underfunding of social care'; and (3) 'the award modernisation process under the Fair Work Act 2006'. The last of these involved a rationalisation of more than 20 different sets of working conditions at state and national level into one federal minimum; in the process, a number of conditions that were particularly beneficial to home care workers were lost. These included, in some cases, the right to request full-time ongoing employment instead of casual employment. Charlesworth concludes by considering the extent to which there is potential in the Australian system of labour regulation to address the marginalisation of home care workers, and the prospects for change. In her view this would require an in-depth revision of employment regulation so that it can accommodate the specific nature of home care work, indeed so that employment regulation can properly value it as 'work'. She ends with a call for a strong and united commitment to this end by employers, unions and the Fair Work Commission itself, in the context of forthcoming revisions of minimum standards.

Part III of this volume ('Labour Market Regulation and Informality') looks at the challenge for labour market regulation posed by persistent informality; and conversely, at how labour market regulation can be tailored to contribute to the pursuit of key policy goals. It explores methodological issues while paying attention to developments in different regions of the world. Countries addressed in this part include Argentina, Colombia, Indonesia and the Republic of Korea.

Chapter 7 (Byung-Hee Lee: 'Informal work in the Republic of Korea: Non-regulation or non-compliance?') addresses the issue of the continued spread of informal employment in the Republic of Korea notwithstanding protective policy measures. The author identifies weaknesses in policy enforcement, in particular at the level of labour administration and labour inspection, as a key consideration. In Lee's view, the way in which labour

market flexibility was fostered in the Republic of Korea after the 1997 financial crisis contributed to shifting the burden of flexibility to vulnerable groups of workers, thus expanding low-paid and non-standard work, and thereby intensifying the segmentation of the labour market. Drawing on various sources (e.g., Hwang and Lee, 2012), Lee explores the fact that despite a series of national policies to protect vulnerable groups in the Republic of Korea, a considerable number of workers engaged in informal work still remain unprotected by labour laws and social insurance. His argument is developed in five stages, drawing on data from the Supplementary Survey of the Economically Active Population Survey (Korea Statistical Office) and the Korea Labour and Income Panel Survey (Korea Labour Institute).

Lee begins with an explanation of the extent and the nature of informal work in the Republic of Korea, showing that while the share of informal work among employees has been falling over the past decade, about 40 per cent of employees still are not protected by labour law and social insurance. Second, he shows that in the decade 2001 to 2011, about 80 per cent of informal workers were excluded from more than two of three policies that should – in principle – be characterised by their universal application across all workplaces, namely: (1) the minimum wage; (2) the mandatory retirement allowance; and (3) the subscription to public pension plans. In the author's view, this overlapping trend of exclusion implies that measures to strengthen the effectiveness of any of these three protective policies may contribute to enhancing the compliance level of other policies. Lee then explores two key characteristics of informal work in the country: on the one hand, lack of regulation – that is, exclusion by law; and on the other hand, lack of compliance – that is, exclusion in practice. In Lee's view only four types of informal employment can be linked to non-regulation: independent contractors, domestic workers, workers with less than one year of tenure and part-time workers who work for less than 15 contractual hours per week. Lee argues that all other cases of informal employment should be linked to non-compliance; in total, some 80 per cent of all informal work in the Republic of Korea. Thus he concludes that the low level of policy enforcement is the crux of informal employment, and emphasises the need to reinforce the implementation of relevant regulation. In a fourth stage, Lee applies a logit regression analysis, setting 'informal employment' and 'informal employment due to employer non-compliance' as the two dependent variables, in order to explore the job characteristics of informal employment (for example, workplace size, employment type, industry, occupation and unions). This shows that informal work is more likely in smaller firms, and that informal employment due to non-compliance is strongly

associated with work in construction, personal services and distribution services. It is also significantly more common for blue-collar workers and those in the services sector.

To conclude, Lee examines the issue of the persistence of informal work using a dynamic random effects probit model to analyse whether the persistence of informal work is linked to state dependence. He finds that being in informal work is a strong predictor of informal work in the future, and that genuine state dependence is closely related to the persistence of informal employment. One of the policy implications is the need to strengthen labour administration and labour inspection services as a deterrent, while also providing 'policy incentives for employers to comply with rules and policies and to formalize employment'. In other words, focusing on legislation to expand the scope of social protection coverage is not enough. Lee suggests promoting formal employment through 'a policy mix combining labour laws, labour policies, social insurance programmes and taxation policies'. He also advocates for policies that target vulnerable groups which present specific risks and probabilities of persistent informal employment.

Chapter 8 (Fabio Bertranou and Luis Casanova: 'Employment formalization in Argentina: Recurring and new challenges for public policies') analyses employment formalisation in Argentina during the 2000s, as well as the public policies associated with that process. Bertranou and Casanova note that more than 40 per cent of all employees in Argentina are affected in one way or another by informality. A large part of this informality is unregistered work; not surprisingly, this is the target of the most relevant public policy measures in Argentina. Bertranou and Casanova focus on the process of registered employment formalisation, and particularly the drop in non-registered salaried employment. In their view, the experience of Argentina demonstrates that a 'comprehensive strategy' is needed to drastically decrease informal employment. However, all the policy measures taken in this framework should be tailored as far as possible to the heterogeneity of productive structures.

Drawing on global ILO findings, Bertranou and Casanova single out several factors that tend to prevent public policies from being fully effective in the area of informality. In their view, these factors are: the persistence of informality, even during periods of economic growth and rising employment; the connection between the formal and informal sectors; the presence of informal employment within the formal economy; and the great variety of jobs affected by informality. With a view to developing a comprehensive policy approach, Bertranou and Casanova explore the impact on informality of the main characteristics of the critical segments of the job market and the issue of concentration of informal employ-

ment. The critical segments that are identified for this purpose include: domestic work, the textile industry, micro-enterprises in commerce and construction, self-employment and rural employment.

Bertranou and Casanova show that since 2003, the manner in which policy-makers have addressed informal employment in Argentina was by integrating and coordinating various programmes, as well as social and economic strategies linked with the factors that were likely to lead to informal work. Drawing on various authors (e.g., Beccaria, 2015), they focus their attention on the relationship between economic growth and the creation of salaried employment. Against this background, Bertranou and Casanova welcome the 2014 Law for the Promotion of Registered Employment and Labour Fraud Prevention, which was adopted in Argentina following a process of social dialogue on informality that was organised between the government and major actors from the world of work. This new law introduces a set of measures to create formal employment and to formalise informal employment in both the 'formal sector' and in the 'partly formal/partly informal sector'. Bertranou and Casanova consider that these new measures may give rise not only to an enhancement of working and employment conditions but also to productivity increases. However, in their view, the only way for these measures to have a real impact on employment formalisation is to ensure that they are accompanied by productive, fiscal, social and labour policies, along with a macroeconomic framework that fosters sustainable economic growth. The authors argue therefore that 'future strategies must take into account the heterogeneous nature of informality, seeking formal employment while fostering economic activity'. For this endeavour to succeed, not only is the role of the state essential, but the genuine involvement of workers' and employers' associations, and other relevant actors, is equally important.

Chapter 9 (Ana Maria Vargas-Falla: 'Formalizing street vendors: Regulating to improve well-being or to gain control?') investigates the impact of legal norms on the lives of informal vendors in developing economies. The chapter explores alternative forms of state regulation to promote voice and to upgrade vendors' circumstances in order to enhance their economic situation. The empirical basis for the analysis is drawn from four periods of ethnographic field research between 2011 and 2014 in Bogotá, Colombia. Bogotá provides rich material given that it experienced dramatic shifts in the regulation of street vending, moving from drastic prohibition and frequent evictions (1998 to 2003) to alternative forms of regulation that bolstered informal vendors (2004 to 2012). Vargas-Falla situates her work in the context of prior literature about formalisation and the regulation of urban vendors (e.g., Bhowmik, 2005; Donovan, 2008; Sen, 1999, 2013). She uses Sen's concept of well-being and his related

capabilities approach to investigate the relation between formalisation of street vendors and the improvement of their working conditions. Vargas-Falla deconstructs the main assumptions in formalisation theory by shedding light on the ways in which formalisation can bring important outcomes for the human development of street vendors, especially their working conditions. Vargas-Falla recalls that a prevalent assumption in formalisation programmes for street vendors is that their legal status will help them in avoiding police evictions and harassment. It will also help them to improve their income and develop their businesses (as a result, notably, of access to formal credit). However, Vargas-Falla decides to focus not only on the economic impact of formalisation, but also on other aspects, such as working conditions and membership in organisations.

The question at the centre of the chapter is ‘whether and how street vendors could improve their working conditions after formalisation’. The study shows two major improvements that followed formalisation: on the one hand, the ability of workers to work without fear of police eviction; and on the other hand, their protection from harsh weather conditions (since vendors benefit from tents and roofs in formalised vending zones). Vargas-Falla observes that both government and leaders of vendors’ organisations were critical of formalisation; in her view, they did not understand the human development outcomes that helped vendors improve their working conditions. From the government’s perspective, the situation was unsatisfactory and the formalisation programme was a failure because the transition from the informal to the formal economy had never occurred. However, in practice, many vendors were actually relatively satisfied, because their working conditions had improved. This led Vargas-Falla to conclude that formalisation of workers in the informal economy can have significant outcomes for the human development of vendors. Yet, formalisation is ‘a venture that requires a bottom-up approach’. Against this background, and based on her extensive empirical work, Vargas-Falla considers that legal norms can become a tool for empowerment, voice and poverty reduction, provided that the law is used to improve the life of vulnerable groups, and not as a tool for control and coercion.

Chapter 10 (Alex de Ruyter, Muhammad Irfan Syaebani, Riani Rachmawati, David Bailey and Tonia Warnecke: ‘Working conditions of urban vendors in Indonesia: Lessons for labour law enforcement’) draws on the insights from field work in the Greater Jakarta region of Indonesia to investigate the labour market experiences of informal street vendors in Indonesia. De Ruyter et al. explore the consequences of their labour market vulnerability in terms of labour law enforcement. The chapter focuses on the interaction of vendors with ‘customers’, authorities, and with other labour market intermediaries trying to improve their welfare.

Drawing on various sources (e.g., Vosko, 2006; Folkerth and Warnecke, 2011) as well as ILO research (e.g., ILO, 2014), de Ruyter et al. begin by analysing the interaction between vulnerability and precariousness. In their view, the notion of vulnerability results from unequal social relations. Hence vulnerability encompasses class, gender and race dimensions. Therefore, for these authors, formalisation of the informal sector should be approached from the perspective of power relations, rather than in terms of legal regulation.

Building on Brata's (2010) typology (as adapted from Dabir-Alai, 2004), that seeks to develop an 'index of vulnerability' by exploring the working conditions of street vendors, de Ruyter et al. investigate the various types of working conditions to which vendors are exposed. Their results demonstrate that vulnerability is the result of a combination of economic and social factors, and that precarious work is aggravated by the unequal social relations faced by vendors. The vulnerability of street vendors is particularly sharp in terms of their low income, potential for harassment by authorities, lack of access to capital, and lack of access to affordable healthcare and education for some (in particular, for internal migrants). In the conceptual framework developed by de Ruyter et al., the factors shaping labour market vulnerability include: labour law, geography, earnings, representation, employment status, relations with creditors and suppliers, education, as well as gender, ethnicity and class. Against this background, they consider that a primary requirement should entail a move beyond a simple distinction between the 'formal' and 'informal' sector and an acknowledgement of 'a more nuanced gradation of vulnerability across the spectrum of employment arrangements' in both developing and emerging countries.

The policy recommendations that conclude their chapter include a number of measures aiming at reducing the vulnerability of urban vendors, and at contributing to a 'decent work' agenda. In particular, the findings suggest that greater efforts are needed to support the access of highly vulnerable workers, such as urban vendors, to adequate legal remedies and to fair and expeditious complaint procedures. The fight against corruption and unaccountable practices by officials with whom street vendors are to interact should also be more actively pursued. From a wider perspective, in the authors' view, supporting urban vendors to move out of poverty implies finding measures to extend social protection and welfare coverage to all vulnerable workers (for example, specific social security schemes that reach beyond the formal economy). The authors consider that such measures should be aligned with the recommendation of the World Trade Organization and the International Labour Organization (WTO and ILO, 2009) according to which a 'multidimensional approach' is

needed to enhance formal employment and support those still in informal employment.

1.4 CONCLUSION

Notwithstanding the diverse range of countries and contexts addressed in the chapters of this book, a number of common arguments and themes can be identified. One is the need to account for the underlying causes of informality in attempting to regulate effectively to ameliorate its adverse consequences. A number of chapters point to the continuing fragmentation of forms of work, and to the role of supply chains in contributing to this phenomenon. Both de Ruyter et al. and Vargas-Falla identify the multiple and overlapping sources of vulnerability for those who work as informal street vendors, in Indonesia and Colombia (respectively). In Indonesia in particular, informal vendors experience the adverse effects of the combination of race, class and, for many, (internal) labour migrant status. Thus, de Ruyter et al. call for enforcement as a means of addressing the key underlying issue, which for them is the dynamics and reality of power relations. Vosko et al. also insist that we must not overlook the power dynamics of the employment relationship and how it has been changing, particularly by turning away from the state's role in implementing the law as it exists.

Several chapters emphasise that informality is not always or necessarily a consequence of legal exclusion from protective regulatory frameworks. Accordingly, and from their different perspectives Rubery, Lee and de Ruyter et al. each argue that there is a need for more and better enforcement of existing rules as one way of moving to address informality. For their part, Vosko et al. are not merely focused on enforcement, but are insistent on the importance of maintaining a role for hard law as well as, or perhaps in preference to, soft law. Interestingly, in light of the large literature on the operation of regulation in practice and the rise of (among others) 'new governance' theories of regulation (some of which is briefly touched on above), theirs can in some ways be considered a call not to overlook the 'traditional' goals and methods of regulatory enforcement.

Many authors identify the deep significance and pervasive impact of our differing conceptual frameworks for 'formality', 'work' and much else besides. Thus, Charlesworth points to the failure of regulatory frameworks – and indeed of key regulatory actors – to conceive properly of home care work as work at all. Without that being addressed, these workers seem in her view destined only to endure more of the same. For his part, Freedland's exploration of the interaction of the regulation of

migration and the regulation of labour clearly illustrates the large area of conceptual uncertainty around the very idea of informality itself. Moreover, he carefully identifies the adverse, indeed pernicious, impact of the concept of criminality within the discourse of labour migration. Its influence can lead to the result that the worker who requires protection is considered culpable for not experiencing it and, to compound the injury, therefore not worthy of efforts to ensure the effectiveness of labour regulation for all who work. In this sense, his argument for an ‘inclusive’ approach to labour regulation is relevant well beyond the specific context of work by migrants: it is a call to ensure that labour regulation always, and in all ways, reaches all those who should benefit from it.

Van Klaveren and Tijdens are also deeply concerned with the conceptual framework within which we attempt to understand how work is structured, and how we can develop policies that will improve the lot of informal workers over time. In the end, theirs is a very clear and simple question: how will the situation improve if we simply exclude certain types of work – in this case, agricultural work – from our analysis, and if therefore we do not attempt to gather the data that could inform good policy-making? In this respect, their analysis has strong connections to Charlesworth’s approach. In addition, both these chapters, together with those of de Ruyter et al., Lee, Vargas-Falla and Vosko et al., are all attuned to the gender implications of the operation of these underlying conceptual frameworks. In this way, the question from van Klaveren and Tijdens can be differently phrased: how will the situation improve for women?

In her opening, Rubery carefully unpacks the interrelationship of labour protection policy to the nature of the standard employment relationship (SER), and its continuing significance as the conceptual touchstone for how we establish frameworks of protective labour regulation (compare Deakin, 2013). Hence she calls for a conceptualisation of labour protection that is not so tied to the SER. Rubery’s chapter is, naturally, alive to the very broad canvas on which she works: that is, of the very many interrelated economic and social phenomena that shape work relations, and thus the outcomes for workers, whether formal or informal. Likewise, Bertranou and Casanova argue for policy approaches to address informality that can take account of wider policy frameworks, while also being tailored to the specific characteristics exhibited by informality in any particular context. As does Lee in his analysis of the situation in the Republic of Korea, they emphasise how informality is frequently associated with particular industry structures and/or forms of work.

For her part, Vargas-Falla illustrates the significance of the conceptual framework in a different way: by framing her analysis in terms of Sen’s conception of well-being, she is able to conclude that policy had a positive effect

for street vendors. While they did not become fully formal, they reported that their working conditions had been improved in important ways, and in ways that might further enhance their capabilities. Here, then, Vargas-Falla is explicit about what is sometimes less directly said in other chapters: there is a positive role for states in devising and implementing labour regulation.

In different ways, and from their different perspectives, each of the chapters in this book makes that point. Whether because of the need to address the adverse effects of increasing labour market segmentation; to ensure that women workers are treated as equals; to tackle the underlying power relations that conspire to construct informality; or to promote development and improved economic outcomes, the authors agree that labour regulation is essential. It should be carefully designed. It should be effectively enforced. But it should be neither gainsaid, nor overlooked, in the continuing pursuit of decent work for all.

REFERENCES

- Amengual, M. 2010. 'Complementary Labor Regulation: The Uncoordinated Combination of State and Private Regulators in the Dominican Republic', *World Development*, **38** (3), <https://pdfs.semanticscholar.org/1b4e/fe654a7d44e19cd839a6a980bb7c44712aea.pdf>.
- Baldwin, R. and Black, J. 2008. 'Really Responsive Regulation', *Modern Law Review*, **71** (1), 59–94.
- Beccaria, L. 2015. 'Perspectiva de políticas de formalización de la economía informal', in Bertranou, F. and Casanova, L. (eds), *Caminos hacia la formalización laboral en Argentina* (Buenos Aires: ILO), pp. 185–206.
- Berg, J. (ed.). 2015. *Labour Market, Institutions and Inequality – Building Just Societies in the 21st Century* (Cheltenham, UK and Northampton, MA, USA and Geneva, Switzerland: Edward Elgar Publishing and ILO).
- Bhowmik, S.K. 2005. 'Street Vendors in Asia', *Economic and Political Weekly*, **40** (22–3), 2256–64.
- Biagi, M. 2000. *Job Creation and Labour Law: From Protection to Pro-action* (The Hague: Kluwer Law International).
- Black, J. 2005. 'The Emergence of Risk-Based Regulation and the New Public Risk Management in the UK', *Public Law*, Autumn, 510–46.
- Bluff, E. and Johnstone, R. 2003. 'Infringement Notices: Stimulus for Prevention or Trivialising Offences?', *Journal of Occupational Health and Safety*, **19**, 337–46.
- Brata, A. 2010. 'Vulnerability of Urban Informal Sector: Street Vendors in Yogyakarta, Indonesia', *Theoretical and Empirical Researches in Urban Management*, **5** (14), <http://um.ase.ro/no14/4/pdf>.
- Cazes, S. and Aleksynska, M. 2014. 'Comparing Indicators of Labour Market Regulations across Databases: A Post Scriptum to the Employing Workers Debate', Conditions of Work and Employment Series No. 50 (Geneva: ILO).
- Charmes, J. 2012. 'The Informal Economy Worldwide: Trends and Characteristics', *Margin – The Journal of Applied Economic Research*, **6** (2), 103–32.

- Crock, M. and Friedman, L. 2006. 'Immigration Control and the Shaping of Australia's Labour Market: Conflicting Ideologies or Historical Imperatives?', in Arup, C., Gahan, P., Howe, J., Johnstone, R., Mitchell, R. and O'Donnell, A. (eds), *Law and Labour Market Regulation* (Sydney: Federation Press), pp. 322–43.
- Dabir-Alai, P. 2004. 'The Economics of Street Vending: An Empirical Framework for Measuring Vulnerability in Delhi in the Late 1990s', paper presented at the EDGI and UNU-WIDER Conference, 17–18 September, Helsinki.
- Deakin, S. 2011. 'The Contribution of Labour Law to Economic and Human Development', in Davidov, G. and Langille, B. (eds), *The Idea of Labour Law* (Oxford: Oxford University Press), pp. 156–73.
- Deakin, S. 2013. 'Addressing Labour Market Segmentation: The Role of Labour Law', Working Paper No. 52, Governance and Tripartism Department (Geneva: ILO).
- Donovan, M.G. 2008. 'Informal Cities and the Contestation of Public Space: The Case of Bogotá's Street Vendors, 1988–2003', *Urban Studies*, **45** (1), 29–51.
- Dupper, O., Fenwick, C. and Hardy, T. 2016. 'The Interaction of Labour Inspection and Private Compliance Initiatives: A Case Study of Better Work Indonesia', paper presented at the 4th Regulating for Decent Work Conference, July, Geneva.
- Folkerth, J. and Warnecke, T. 2011. 'Organizing Informal Labor in India and Indonesia', paper presented at the Global Labor University Conference, Johannesburg.
- FRA. 2015. *Severe Labour Exploitation: Workers Moving Within or Into the European Union: States' Obligations and Victims' Rights*, European Union Agency for Fundamental Rights (Luxembourg: Publications Office of the European Union).
- Freedland, M. 2013. 'Burying Caesar: What Was the Standard Employment Contract?', in Stone, K. and Arthurs, H. (eds), *Rethinking Workplace Regulation: Beyond the Standard Contract of Employment* (New York: Russell Sage Foundation), pp. 81–94.
- Freedland, M. and Kountouris, N. 2013. *The Legal Construction of Personal Work Relations* (Oxford: Oxford University Press).
- Fudge, J. 2012. 'Blurring Legal Boundaries: Regulating for Decent Work', in Fudge, J., McCrystal, S. and Sankaran, K. (eds), *Challenging the Legal Boundaries of Work Regulation* (Oxford: Hart Publishing), pp. 1–26.
- Gellatly, M., Grundy, J., Mirchandani, K., Perry, J.A., Thomas, M.P. and Vosko, L.F. 2011. "'Modernising" Employment Standards?: Administrative Efficiency and the Production of the Illegitimate Claimant in Ontario, Canada', *Economic and Labour Relations Review*, **22** (2), 81–106.
- Gunningham, N. 2011. 'Strategizing Compliance and Enforcement: Responsive Regulation and Beyond', in Parker, C. and Lehmann Neilsen, V. (eds), *Explaining Compliance: Business Responses to Regulation* (Cheltenham, UK and Northampton, MA, USA: Edward Elgar Publishing), pp. 199–221.
- Gunningham, N. and Grabosky, P. 1998. *Designing Environmental Policy* (Oxford: Clarendon Press).
- Hardy, T. and Howe, J. 2013. 'Too Soft or Too Severe? Enforceable Undertakings and the Regulatory Dilemma Facing the Fair Work Ombudsman', *Federal Law Review*, **41**, 1–33
- Hardy, T., Howe, J. and Cooney, S. 2013. 'Less Energetic but More Enlightened?'

- Exploring the Fair Work Ombudsman's Use of Litigation in Regulatory Enforcement', *Sydney Law Review*, **35** (3), 565–97.
- Howe, J. 2008. *Regulating for Job Creation* (Sydney: Federation Press).
- Howe, J., Hardy, T. and Cooney, S. 2014. 'The Transformation of Enforcement of Employment Standards in Australia: A Review of the Fair Work Ombudsman's Activities from 2006–2012' (Melbourne: Centre for Employment and Labour Relations Law, Melbourne Law School, University of Melbourne).
- Hwang, D. and Lee, B. 2012. 'Low Wages and Policy Options in the Republic of Korea: Are Policies Working?', *International Labour Review*, **151** (3), 243–59.
- ILO. 2012. *Measuring Informality: A Statistical Manual on the Informal Sector and Informal Employment* (Geneva: ILO).
- ILO. 2014. *World of Work Report 2014: Developing with Jobs* (Geneva: ILO).
- ILO. 2015a. *World Employment and Social Outlook: Trends 2015* (Geneva: ILO).
- ILO. 2015b. 'Non-Standard Forms of Employment', Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment, MENSFE/2015 (Geneva: ILO).
- ILO. 2015c. *World Employment and Social Outlook 2015: The Changing Nature of Jobs* (Geneva: ILO).
- ILO. 2016. *Non-Standard Employment around the World: Understanding Challenges, Shaping Prospects* (Geneva: ILO).
- IMF. 2016. *World Economic Outlook: Too Slow for Too Long* (Washington, DC: IMF).
- Kagan, R., Gunningham, N. and Thornton, D. 2011. 'Fear, Duty and Regulatory Compliance: Lessons from Three Research Projects', in Parker, C. and Lehmann Nielsen, V. (eds), *Explaining Compliance: Business Responses to Regulation* (Cheltenham, UK and Northampton, MA, USA: Edward Elgar Publishing), pp. 37–58.
- Kolben, K. 2007. 'Integrative Linkage: Combining Public and Private Regulatory Approaches in the Design of Trade and Labor Regimes', *Harvard International Law Journal*, **48** (1), https://www.academia.edu/3232855/Integrative_linkage_combining_public_and_private_regulatory_approaches_in_the_design_of_trade_and_labor_regimes?auto=download.
- Lee, S. and McCann, D. 2011a. 'New Directions in Labour Regulation Research', in Lee, S. and McCann, D. (eds), *Regulating for Decent Work: New Directions in Labour Market Regulation* (Basingstoke, UK and Geneva, Switzerland: Palgrave Macmillan and ILO), pp. 1–27.
- Lee, S. and McCann, D. (eds). 2011b. *Regulating for Decent Work: New Directions in Labour Market Regulation* (Basingstoke, UK and Geneva, Switzerland: Palgrave Macmillan and ILO).
- Lee, S. and McCann, D. 2014. 'Regulatory Indeterminacy and Protection in Contemporary Labour Markets: Innovation in Research and Policy', in McCann, D., Lee, S., Belser, P., Fenwick, C., Howe, J. and Luebker, M. (eds), *Creative Labour Regulation: Indeterminacy and Protection in an Uncertain World* (Basingstoke, UK and Geneva, Switzerland: Palgrave Macmillan and ILO), pp. 3–28.
- Locke, R. 2013. *The Promise and Limits of Private Power – Promoting Labor Standards in a Global Economy*, Cambridge Studies in Comparative Politics (New York: Cambridge University Press).
- Malmberg, J. 2009. 'Enforcement of Labour Law', in Hepple, B. and Veneziani, B.

- (eds), *The Transformation of Labour Law in Europe: A Comparative Study of 15 Countries 1945 to 2004* (Portland, OR: Hart Publishing), pp.263–85.
- McCann, D., Lee, S., Belser, P., Fenwick, C., Howe, J. and Luebker, M. (eds). 2014. *Creative Labour Regulation: Indeterminacy and Protection in an Uncertain World* (Basingstoke, UK and Geneva, Switzerland: Palgrave Macmillan and ILO).
- McCann, D. and Murray, J. (2014). ‘Prompting Formalisation Through Labour Market Regulation: A “Framed Flexibility” Model for Domestic Work’, *Industrial Law Journal*, **43** (3), 319–48.
- Milena Galazka, A. 2015. ‘Report on the Global Survey into the Use of Information and Communication Technologies in National Labour Administration Systems’, Working Paper, Governance and Tripartism Department (Geneva: ILO).
- Morgan, B. and Yeung, K. 2007. *Law and Regulation: Text and Materials* (Cambridge: Cambridge University Press).
- OECD. 2015. *Employment Outlook 2015* (Paris: OECD).
- Ostry, J.D., Berg, A. and Tsangarides, C.G. 2014. ‘Redistribution, Inequality, and Growth’, IMF Staff Discussion Note, Research Department. SDN/14/02 (Washington, DC: IMF).
- Piore, M. and Schrank, A. 2008. ‘Toward Managed Flexibility: The Revival of Labour Inspection in the Latin World’, *International Labour Review*, **147** (1), <https://www.brown.edu/academics/sociology/sites/brown.edu/academics.sociology/files/uploads/PublishedILR-English.pdf>.
- Pires, R. 2008. ‘Promoting Sustainable Compliance: Styles of Labour Inspection and Compliance Outcomes in Brazil’, *International Labour Review*, **147**, 199–223.
- Prassl, J. 2015. *The Concept of the Employer* (Oxford: Oxford University Press).
- Sen, A. 1999. *Development as Freedom* (New York: Knopf).
- Sen, A. 2000. ‘Work and Rights’, *International Labour Review*, **132**, 119–28.
- Standing, G. 2011. *The Precariat: The New Dangerous Class* (London: Bloomsbury Academic).
- Standing, G. 2014. *A Precariat Charter: From Denizens to Citizens* (London: Bloomsbury Academic).
- UN. 2015. *Transforming our World: The 2030 Agenda for Sustainable Development*, Resolution adopted by the General Assembly on 25 September 2015 (A/RES/70/1).
- UNDP. 2015. *Human Development Report 2015: Work for Human Development. Overview* (New York: UNDP).
- Vega, M.L. and Robert, R. 2013. ‘Labour Inspection Sanctions: Law and Practice of National Labour Inspection Systems’, Working Document No. 26, Labour Administration and Inspection Programme (Geneva: ILO).
- Vosko, L. 2006. ‘Precarious Employment: Towards an Improved Understanding of Labour Market Insecurity’, in Vosko, L. (ed.), *Precarious Employment: Understanding Labour Market Insecurity in Canada* (Montreal: McGill-Queens University Press), pp. 3–42.
- Vosko, L. 2010. *Managing the Margins: Gender, Citizenship, and the International Regulation of Precarious Employment* (Oxford: Oxford University Press).
- Weil, D. 2010. ‘Improving Workplace Conditions Through Strategic Enforcement: A Report to the Wage and Hour Division’, United States Department of Labor.
- Weil, D. 2014a. ‘Fissured Employment: Implications for Achieving Decent Work’, in McCann, D., Lee, S., Belser, P., Fenwick, C., Howe, J. and Luebker, M. (eds), *Creative Labour Regulation: Indeterminacy and Protection in an Uncertain*

- World* (Basingstoke, UK and Geneva, Switzerland: Palgrave Macmillan and ILO), pp. 35–62.
- Weil, D. 2014b. *The Fissured Workplace: Why Work Became So Bad for So Many, and What Can Be Done to Improve It* (Cambridge, MA: Harvard University Press).
- Weil, D. and Pyles, A. 2005. ‘Why Complain? Complaints, Compliance and the Problem of Enforcement in the US Workplace’, *Comparative Labor Law and Policy Journal*, **27**, 59–92.
- Winter, S.C. and May, P.J. 2001. ‘Motivation for Compliance with Environmental Regulations’, *Journal of Policy Analysis and Management*, **20** (4), 675–98.
- World Bank. 2013. *World Development Report 2013: Jobs* (Washington, DC: World Bank).
- World Bank. 2015. *Balancing Regulations to Promote Jobs: From Employment Contracts to Unemployment Benefits* (Washington, DC: World Bank).
- Wright, M., Marsden, S. and Antonelli, A. 2004. ‘Building an evidence base for the Health and Safety Commission Strategy to 2010 and beyond: A literature review of interventions to improve health and safety compliance’, Research Report 198 (Reading: Health and Safety Executive).
- WTO and ILO. 2009. *Globalization and Informal Jobs in Developing Countries* (Geneva: World Trade Organization and International Labour Organization).