



International
Labour
Organization

Executive Summary

Regulating for decent work: New directions in labour market regulation

Edited by Sangheon Lee and Deirdre McCann

Deregulation or decent work?

Regulating for decent work: New directions in labour market regulation is the first volume to be compiled from the work of the Regulating for Decent Work Network (<http://rdw.law.unimelb.edu.au/>), an international and interdisciplinary research network supporting and encouraging work that responds to the two most important contemporary accounts of labour market regulation: orthodox economic theory and the ILO's Decent Work Agenda.

The volume highlights certain of the more significant and novel developments in contemporary labour market research with the aim of enriching the academic and policy debates on post-recession labour regulation. The book studies the regulatory frameworks of countries as diverse as Brazil, China, France, Indonesia, Tanzania and the United States, showcasing research from a variety of disciplines including economics, law, industrial relations, sociology and political science. It identifies a set of contemporary challenges for labour market regulation:

- the role of empirical research in assessing and supporting labour market interventions;
- historical limitations in the coverage of regulatory frameworks and recent initiatives to extend their reach; and
- the decline of traditional institutional mechanisms and the search for effective regulatory techniques to replace them.

The contributors to the volume include: Simon Deakin (University of Cambridge), David Marsden (London School of Economics), Jill Rubery (University of Manchester), Manuela Tomei (ILO, Geneva) and Leah F. Vosko (York University, Toronto).

Key findings

The limits of deregulation

The volume concludes that central contentions of orthodox economic theory on the impact of labour market regulations have been exaggerated. It offers a number of country examples:

- In Brazil, the available data do not support the claim that labour regulations cause growing informality. In contrast, there is a trend towards increasing formalization.

- In the wake of the financial crisis, the US “flexibility model” failed to achieve one of its central goals, that of enabling swift job creation.
- Cross-national empirical evidence suggests that minimum wages do not distort the functioning of markets. Minimum wage laws can counter distortionary effects and smooth out some of the imbalances caused by the sex segmentation of labour supply.

The challenge for legal policy is to strike the right balance between growth, employment creation and worker protection. The experience of a number of countries confirms the important role of government policies in allowing workers to share in the gains of economic growth.

The benefits of regulation

There is an urgent need to find more balanced approaches to labour market regulation. Policy actors must recognize the potential benefits of regulation, and reflect them in the design and evaluation of labour market policies.

This book identifies three primary modes in which labour regulations create benefits:

- As instruments to improve workers’ welfare. Labour regulations are widely depicted as the outcome of “rent-seeking” activities. Yet they can operate as “risk-sharing” instruments, helping to share the range of risks characteristic of market economies rather than allowing them to be borne by a relatively small proportion of workers.
- As beneficial constraints. Labour regulations have often been designed explicitly to address the problems that are encountered by employers. In particular, they address coordination failures among employers. Thus, minimum wage mechanisms and job protection laws have positive impacts on workers’ training and skill developments, upgrading the employment structure towards good quality jobs.
- As conduits for social values. Labour market regulations contribute to a set of values beyond the economic. The neoclassical economic tradition has failed to reflect the social objectives served by labour laws.

Measurement and data sources

A proper understanding and assessment of the effects of labour regulations needs robust data. New data sources have been developed that are capable of measuring cross-national differences in legal regimes. These challenge conventional understandings of the economic impact of labour regulations by suggesting that the impact of these regulations is not as negative as has been assumed.

More reliable data on laws and their operation in practice are needed, however, in particular in developing countries. The effects of labour laws cannot be predicted through models of universal application; this requires more sophisticated analyses of national, regional and industry conditions and of complementary institutions.

Precarious work

A widespread disjuncture between labour force participation patterns and regulatory frameworks is helping to generate precarious forms of employment. These tend to include

the most vulnerable groups of workers. Over the last decade, there has been a trend towards legal measures explicitly designed to protect workers in precarious jobs, including in ILO standards and in laws and policies in Australia, Canada, the European Union and the United States.

These frameworks, however, remain grounded in the “standard employment relationship” that is associated with the industrial model of employment. Consequently, they are unlikely to improve working arrangements that deviate sharply from the standard model. Regulatory strategies are needed that do not assume only one model of employment and that are attentive to gender, citizenship and age.

Decline of traditional institutional mechanisms

Traditional institutional mechanisms are in decline. Key illustrations are the internal and occupational labour markets that once characterized industrialized countries’ labour markets. It is increasingly common for labour markets to have competition for entry that is prolonged over a considerable period of time, through extended “entry tournaments”. Such tournament-style transitions pose challenges in securing decent work, especially for those who engage in such tournaments for extended periods of low pay and job insecurity.

It is therefore urgent to devise new regulatory strategies that can take the place of declining institutions. These should include regulatory techniques that effectively govern labour market entry and career advancement.

Elements of effective regulatory frameworks

The effectiveness of regulatory frameworks is one of the key subjects of contemporary labour market regulation research. In contrast, the research on the economic impacts of labour regulation is often underpinned by unsophisticated understandings of the operation of legal measures. This volume highlights the need for legal effectiveness to be integrated into such analyses. For example:

- Statutory standards are generally assumed to be irrelevant to large segments of developing country labour markets, including to the firms and working relationships characterized as the “informal economy”. New survey data from Tanzania is drawn on in this book to examine workers’ knowledge of legal standards and their action in response to breaches of legal norms. This research suggests significant potential for improving working conditions by increasing worker awareness of legal standards.
- Labour inspection mechanisms are widely characterized as ineffective, especially in the developing world. However, innovative practices are beginning to be identified in various settings. The recent Brazilian experience, examined in this volume, indicates that management models and the organization of street-level regulatory work by labour inspectors are crucial to ensuring the effectiveness of labour inspectorates.

The complexity of labour market regulation

Dominant analyses of labour markets do not appreciate the complexity of regulatory frameworks. In particular, conventional economic theory adopts an abstract and static

depiction of legal measures. This is a simplistic characterization of labour regulations that does not account for the complexities of their functioning.

This volume calls for the simplistic model to be replaced by models that capture the intricacies and indeterminacy of regulatory design and implementation. It offers the following suggestions:

- The role of actors other than the judiciary in determining the effect of legal regulations should be recognized. In particular, the response of employers is critical.
- Labour market regulations have the potential for divergent application across different labour market groups. It is essential to determine how regulatory frameworks govern different labour market constituencies.
- New methodologies are needed to analyse the effectiveness of labour market interventions.

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Department of Communication and Public Information
International Labour Organization
4 route des Morillons, 1211 Geneva 22, Switzerland
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