

Regulating for Decent Work Experience

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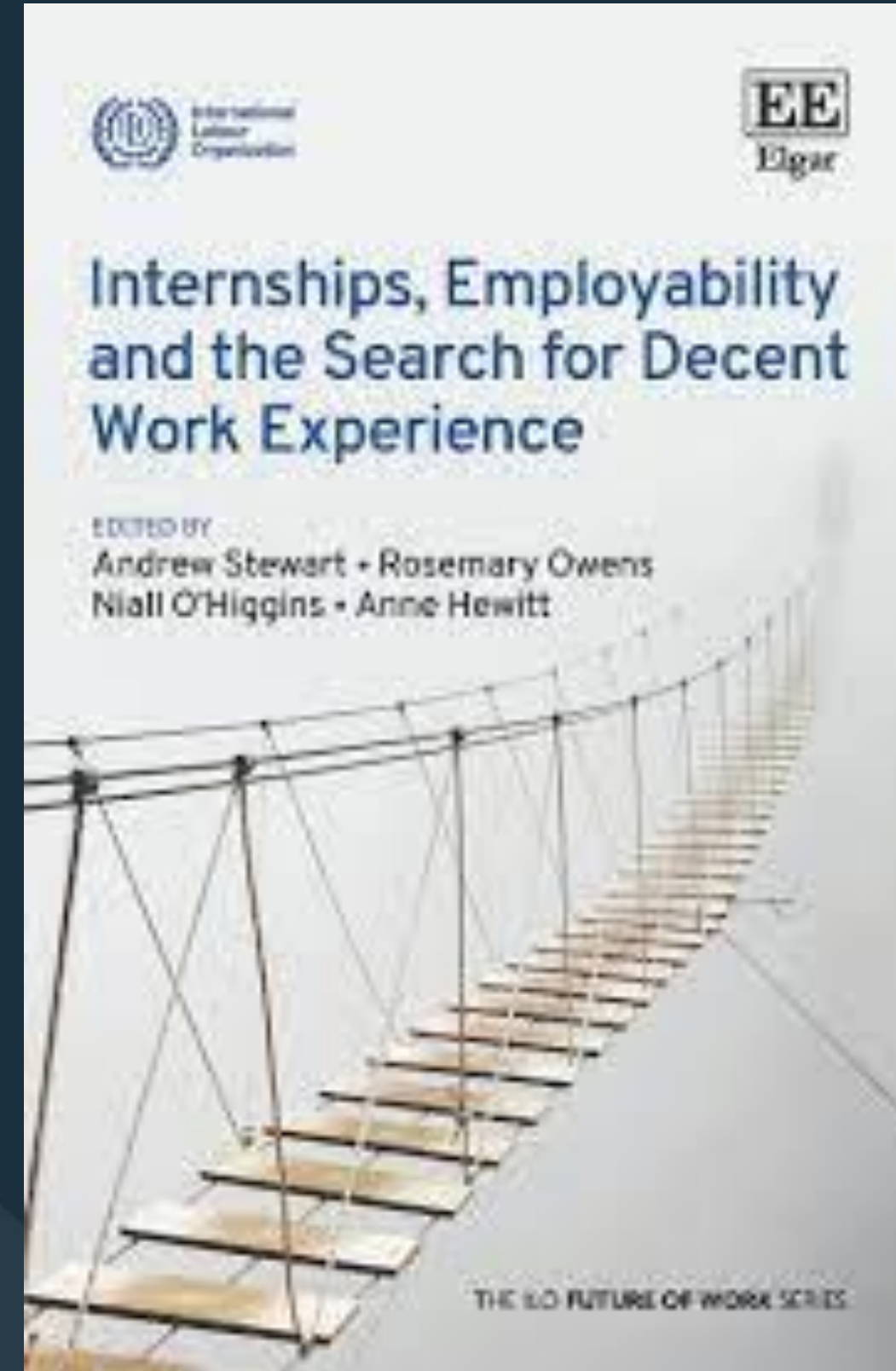
ILO Employment Policy seminar

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A new collection of essays on an important topic for labour policy and regulation



Including contributions from

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- Charoula Tzanakou, Luca Cattani, Daria Luchinskaya & Giulio Pedrini (UK & Italy)
- Paula McDonald & Damian Oliver (Australia)
- Wil Hunt (UK)
- Bernd Waas (Germany)
- Mahlatshe Maake-Malatji (South Africa)
- Jenny Julén Votinius & Mia Rönnmär (Sweden)
- Jim Brudney (USA)
- Joanna Howe (Australia)
- Irene Nikoloudakis (Australia)
- Amir Paz-Fuchs (UK)
- Alex de le Court (Spain)
- Annika Rosin (Finland)
- Alysia Blackham (Australia)
- Julia López López (Spain)



The need for regulation



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“internships, apprenticeships, and other work experience schemes have increased as ways to obtain decent work. However, such mechanisms can run the risk, in some cases, of being used as a way of obtaining cheap labour or replacing existing workers.”

International Labour Conference, ‘The Youth Employment Crisis: A Call for Action’, 2012



“Socio-economic costs arise if traineeships, particularly repeated ones, replace regular employment, notably entry-level positions usually offered to trainees. Moreover, low-quality traineeships, especially those with little learning content, do not lead to significant productivity gains nor do they entail positive signalling effects. Social costs can also arise in connection with unpaid traineeships that may limit the career opportunities of those from disadvantaged backgrounds.”

***European Council Recommendation of 10 March 2014
on a Quality Framework for Traineeships***



Four overlapping policy concerns

Internships may

- 1) not always deliver on the promise of useful training and skill development
- 2) not provide a bridge to paid employment
- 3) contribute to social exclusion, if difficult to access
- 4) undermine the operation of labour standards





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How are internships being regulated?



Owens & Stewart (*International Labour Review*, 2016) identified **five approaches to instrumental state regulation**

1. specific regulation of the use or content of internships
2. regulation by inclusion
3. regulation by exclusion
4. strategic enforcement of labour or social laws
5. systematic use of soft law



- ❖ Book builds upon 2017 report for ILO, examining regulation in 13 countries
 - Argentina, Australia, Brazil, Canada, China, France, Germany, Japan, Romania, South Africa, UK, USA, Zimbabwe
- ❖ Additional countries covered in the book include Italy, Spain and Sweden
- ❖ Note uncertainty that may exist about status of interns, especially in common law countries
- ❖ Accepting legality of unpaid or low-paid internships can segment the labour market and institutionalise discrimination against the young





Note also potential role played by **non-state actors**, such as

- ❖ businesses (company policies)
- ❖ industry groups (codes of practice)
- ❖ educational institutions
- ❖ trade unions (collective bargaining)
- ❖ interns' groups (exchange of information, public campaigns, quality standards)

What about international labour standards?

Only two current instruments *expressly* cover interns

- HIV and AIDS Recommendation 2010 (No 200)
- Convention on Violence and Harassment 2019 (No 190)

But core conventions underpinning 1998 Declaration on Fundamental Principles and Rights at Work apply to all workers

- application to all trainees confirmed by ILO's supervisory bodies

An existing model for future standards?

EU Quality Framework for Traineeships (2014)

- ❖ generally concerned with 'open market' internships, not those undertaken as part of formal education or ALMPs
- ❖ inter alia, requires written agreement clarifying objectives, duration, and entitlements to pay, insurance, etc
- ❖ but does not deal with whether labour or social laws *should* apply

Six principles for regulating internships



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- 1. Certain types of internship, however labelled by the parties, should attract the same entitlements and protections as an 'ordinary' employment relationship**
- 2. Even if a particular type of internship should not attract the operation of certain employment standards, that should not dictate its exclusion from all forms of labour or social regulation**
- 3. Even for educational or ALMP internships excluded from the operation of particular employment standards, such as minimum wages, it may be appropriate to establish modified entitlements or protections, especially for programs beyond a particular duration**

- 4. There should be minimum standards for the documentation of educational or ALMP placements, their duration, hours of work, requirements for specific learning outcomes, and the need to monitor what is happening at the relevant workplace**
- 5. Agencies responsible for enforcing labour standards and social protections should be aware of the issues associated with internships, provide information and assistance to those involved, and take appropriate action against exploitative and unlawful arrangements**
- 6. Efforts should be made to improve access to good quality internships for those from disadvantaged backgrounds**