

Preface

The goal of this volume is to explore how labour law can be understood as an institution and as a policy instrument in the context of a broader concept of economic and human development. The authors are predominantly labour lawyers, although among them are some with experience in development studies, and with knowledge and experience of key facets of economics, and of the quantitative research methods that are a commonplace in that discipline, even if they are not in law. One author is actually an economist – even if writing jointly with a lawyer.

This is important, because it serves in part to explain how we would see the volume as being situated. In particular it explains why there is little or no empirical, or quantitative analysis in a book about a subject which is frequently – in some disciplines, usually – considered from the perspective of such research methodologies. One way to understand this is to consider the volume in the context of the debate in the English language labour law literature – at least – over the functions and purposes of labour law. Much of this debate – not unusually for the discipline – is normative, or perhaps theoretical in nature. From this point of view, we hope the volume contributes to debate over an important question: what is and what should be the goals and purposes of labour law in an era when some of the received wisdom in that field has increasingly come into question? Several chapters touch on key issues in this debate, including the continuing changes in the nature of global production systems, and the increasing tension between those systems, and the concepts and capacities of nation states in the field of labour law.

If anything, it is only in keeping with the breadth of that labour law debate that a number of contributions to the volume range beyond the normative and theoretical to connect with matters that are frequently examined through other lenses. The volume stops short of engaging at length with the current debates over the turn to ‘leximetric’ analysis in labour law, or with the myriad contributions to the literature on the economic effects of labour market institutions. However, it by no means ignores them.

At the same time, the chapters in this volume speak to debates about the meaning, the purpose and the outcomes of the ‘development project’.

Some of the contributions connect theoretically, others both theoretically and empirically. Some draw on thinking about the nature and the impact of fundamental human rights, and others reflect – from practical experience – on one of the key suppositions of much of the economic and development literature (and industry): that reform of legal institutions is possible, and can be effective, in supporting a transition to improved governance through rule of law, and so to improved development outcomes over time.

In truth, the challenge of how to support inclusive and sustainable development is both vast and enduring. And it is also constantly changing, as technologies, regulatory schemes and production systems adapt and change. From our point of view this book is directed towards the ever-present need to strive for policy levers that are apt to tackle the key challenges of human and economic development: how to lift people out of poverty, through work and jobs that are personally and economically enriching and sustainable.

This book has been rather a long time in the making. During that long time it has benefited from a lot of support from a large number of people. As a consequence, we, as the editors, owe a good many debts of gratitude to those without whom the volume would not have come to fruition.

The impetus for this book came from the International Labour Organization's ongoing search for new tools and ideas about how to ensure that the labour laws of nation-states contribute to and foster economic and human development. Mr George Dragnich – then ILO Executive Director for Social Dialogue – allocated resources to the labour law team in the former Industrial and Employment Relations Department to explore the issue. In turn Corinne Vargha – now Director of the ILO's International Labour Standards Department – brought Colin Fenwick into the work, and adopted the suggestion of Steve Gibbons, of Ergon Associates, to involve multiple authors. Renewing a prior collaboration with Colin Fenwick, Shelley Marshall was engaged to manage the project.

The initial project produced a report to the Office that included the early versions of the chapters in this volume by Simon Deakin, Colin Fenwick, Kevin Kolben, Shelley Marshall and Kamala Sankaran. The report included a chapter by Paul Benjamin (University of Cape Town) on labour law and regulation in southern Africa. It also had a chapter by Steve Gibbons and Kirsten Newitt (also of Ergon Associates) on the functional operation of the labour law team and its prospects for attracting additional resources to expand its work and increase its impact. For different reasons, neither of these papers was developed into a final chapter for this volume. But we remain very grateful to Paul, Steve and Kirsten for their early contributions.

The decision to revise the initial report into a book was driven by the strong sense that many of the ideas from the report would make a contribution to ongoing academic and policy debates about the impact and role of labour regulation in the development project. Another driver was the clear need to make the results of a significant investment of public resources available to a wider audience. The reviewers of the book proposal agreed that there was merit in the project, but also pointed to key omissions. Hence this volume includes a chapter on the relationship(s) between trade, labour standards and employment – by David Cheong and Franz Christian Ebert – and another on labour law and development in Latin America – by Graciela Bensusán. And when Paul Benjamin was unable to remain with the project, Shane Godfrey and Marlese von Broembsen stepped in to fill the gap.

There are many people and institutions to thank. Our original authors stayed with this project over a long time, and with good grace. At the ILO, Corinne Vargha, Moussa Oumarou, Sangheon Lee and Raymond Torres all made space – in different ways and at different times – for this work to continue. The ILO's Regulating for Decent Work Network conferences provided opportunities for aspects of the work to be presented and discussed. The ILO found ways to enable Colin Fenwick to work on this book during absences from Geneva. The Department of Business Law and Taxation in Monash University's Faculty of Economics generously made space for Colin Fenwick to work on the book, and to discuss and present work in progress. The Department is also of course the home institution of Shelley Marshall. At different times and in different ways, Melbourne Law School – and especially its Centre for Employment and Labour Relations Law – played a key role in allowing the project to continue. Colin Fenwick was provided with research facilities and space, and opportunities to present and discuss work in progress. More fundamentally, the Centre and the Law School generated the connection between us that grew into the collaboration that led to this book.

The ILO's publishing unit endured with good humour the many delays and twists and turns along the way – and always with useful suggestions on how to move forward. We offer then our thanks to Charlotte Beauchamp, Chris Edgar and Alison Irvine for their continuing willingness to invest in the project. We offer a very special thanks to our co-publishers, Edward Elgar, who readily agreed to accept the manuscript for publication, at a very late stage, following the withdrawal of another publisher.

No prefatory remarks to a book of this nature would be complete without thanks to the families that have sustained us along the way. And for good reason: for without them the endeavour would not have come to

such a conclusion. To our partners, to our children, and to our parents – both living and dead – we express our deepest thanks for their continued support and love.

SDM
CFF
Melbourne and Geneva