

Protecting the Future of Work

TRADE UNIONISM

Changing Contexts and Shifting Paradigms

Series Editors

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This series focusses on trade unions in terms of a range of relevant changes and developments internally and in relation to the social, economic and political environment. The debate on trade union change, renewal and contexts has been a central part of labour and employment relations for many years. There are many complex and changing dynamics within the labour movement in terms of new forms of trade union strategies, changing organisational structures, more complex relations with employers and the state and new spaces of representation and communication within and beyond the workplace.

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Edited by Barry Colfer, Brian Harney, Colm McLaughlin and Chris F. Wright

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Edited by Andy Hodder and Miguel Martínez Lucio (Forthcoming)

Protecting the Future of Work: New Institutional Arrangements for Safeguarding Labour Standards

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INVESTOR IN PEOPLE

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Endorsements

This volume contributes to innovation in theory and policy debate in industrial relations and entails a stimulating and topical analysis of the role and practices of trade unions, new forms of regulation, and labour standards in times of challenge and transformation.

*Mia Rönnmar, Professor, Faculty of Law, Lund University, Sweden, and
Past-President of the International Labour and Employment
Relations Association*

This edited volume is a thought-provoking, conceptually rigorous, and urgent analysis of changes in labour market regulation and employment relations over recent times. The shift the authors identify towards a ‘patchwork of rules’ is illustrated through the impressive line of chapters covering unfamiliar areas like the ‘gig economy’ in China. A must-read for understanding contemporary developments in employment relations and a fitting tribute to Professor Willy Brown.

*Heather Connolly, Associate Professor, Department People,
Organizations and Society, Grenoble Ecole de Management, France*

This volume brings together some of the best thinkers about how the regulation of work and employment is changing around the world to mark the legacy of Professor Willy Brown. The chapters explore how the regulation of our working lives is changing; sometimes optimistically, sometimes pessimistically. But always with an attention to detail that defines Willy’s intellectual legacy. The authors make important contributions to our understanding of the changes and what they mean to workers, managers, capital, states, and supra-state institutions.

*Melanie Simms, Professor of Work and Employment,
Adam Smith Business School, University of Glasgow, UK*

Ongoing upheavals in the world of work, including the rise of platform work, outsourcing, and global supply chains, have disrupted and corroded the capacity of established regulatory arrangements, notably collective bargaining, to protect workers and improve working conditions. This stimulating and timely volume examines the new forms of statutory and employer-led, voluntarist regulation that have emerged in response, highlights the institutional experimentation involved, and assesses their interface with traditional arrangements in an evolving regulatory 'patchwork'. The contributors draw insightfully from developments across a range of countries.

*Paul Marginson, Emeritus Professor of Industrial Relations,
University of Warwick, UK*

A truly insightful analysis of the world of work in contemporary societies, offering many practical solutions to key problems. Very much in the spirit of Willy Brown's contributions, and a strong testament to how much he has given and continues to give to our subject area.

*Keith Whitfield, Professor of Human Resource Management,
Cardiff Business School, Cardiff University, UK*

It is widely recognised that the structure of employment across the globe is changing dramatically including greater gig, sub-contract and other forms of irregular work. What is less clear is how governments have responded. This volume fills the gap by clarifying the often un-coordinated 'patchwork' of public policies that have been developed to date in virtually all countries and the volume offers many helpful suggestions for better policies. The contributors to the volume are distinguished comparative scholars, having had the benefit of mentorship provided by the late Professor Willy Brown. Their insightful analyses well reflect the power of the careful approach that characterised Professor Brown's many contributions.

*Harry C. Katz, Jack Sheinkman Professor, President of International
Labor and Employment Relations Association, ILR School,
Cornell University, USA*

In this important collection, Barry Colfer and his colleagues argue that the once-integrated web of rules that governed employment in developed economies has fragmented. In its place has emerged a 'patchwork of rules', comprised of surviving islands of union-based joint regulation alongside burgeoning state regulation and unilateral regulation by employers. The latter, they contend, is often informed by and legitimated through narratives of responsible and sustainable business. To my mind, this analysis is sound, and the book contains a valuable set of case studies which trace the origins, causes, and effects of this process of fragmentation. It is an essential guide to the changing world of work.

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About the Editors

Barry Colfer is a Research Fellow at St Edmund's College and the Department of Politics and International Studies (POLIS) at the University of Cambridge and a Max Weber Fellow at the European University Institute in Florence, Italy. His research includes the implications of Brexit for Ireland, the politics of European integration and the future of work. He holds a PhD from POLIS and has held postdoctoral fellowships at the University of Oxford, Harvard University, and the Polytechnic University of Turin. As of January 2022, he is the Director of Research at the Institute of International and European Affairs think tank in Dublin, Ireland.

Brian Harney is Professor of Strategy and HRM at Dublin City University Business School. His research explores the intersection of strategy and employment relations with a particular focus on small, growing, and knowledge intensive firms. Brian is the author of several books and edited collections, including *The Global Case Book* and *Reframing HRM in SMEs*. His research has been published in leading journals while he has recently guest edited special issues of *HRM Review*, *Employee Relations*, *International Journal of HRM*, and *International Small Business Journal*.

Colm McLaughlin is Professor of Employment Relations at the UCD College of Business, University College Dublin and Co-Director of the UCD Centre for Business and Society. His research focusses on comparative and institutional employment relations and compares the effectiveness of different forms of employment regulation in achieving public policy outcomes around decent work and equality. His work has been published in leading journals including *Industrial Relations*, *British Journal of Industrial Relations*, *Industrial Law Journal*, *Cambridge Journal of Economics*, and *Academy of Management Learning and Education*.

Chris F. Wright is an Associate Professor in the Discipline of Work and Organisational Studies at the University of Sydney Business School. His research focusses primarily on migrant labour, comparative employment relations, and sustainable supply chains. He is co-editor of *International and Comparative Employment Relations: Global Crises and Institutional Responses* and his work has been published widely including in the *British Journal of Industrial Relations*, *ILR Review*, *Industrial Relations*, *Governance*, and the *Journal of Business Ethics*.

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Foreword

This book examines issues which are crucial to the future of work in contemporary society. The focus of this edited collection is on how labour standards can be safeguarded by developing new institutional arrangements which protect and enhance people's working lives. All members of the editorial team and many of the contributors were students and colleagues of the late Professor William (Willy) Brown, former Montague Burton Professor of Industrial Relations and Master of Darwin College at the University of Cambridge in the UK. The book is testament to the influence that Willy Brown had not only on academic research but also in the broader community through his service to bodies such as the Low Pay Commission and the Advisory Conciliation and Arbitration Service in the UK and his international activities.

This volume makes an important contribution to understanding the impact of neoliberal economic and social policies on many countries during recent decades. It also provides a new conceptual framework for analysing changes in labour market regulation and industrial relations which have been felt strongly by countries not only in the 'Anglosphere' (such as the UK, USA, Canada, Australia and New Zealand) but also in other parts of the world.

The editors argue that a new 'patchwork of rules' has emerged and displaced the previous 'systemic web of rules' in regard to industrial relations. The new 'patchwork' comprises three separate but related 'webs of rules'. First, the 'traditional web of rules' of joint regulation through collective bargaining or equivalent arrangements which often, but not always, involve trade unions. Second, 'a voluntarist, employer-led web of rules', which are driven by corporate social responsibility and high-commitment HRM. Third, a web of rules related to statutory minimum standards, which are predominately aimed at disparate groups comprising non-unionised lower-skilled occupations as well as non-professional private services and industries that are susceptible to actions which shift the power equilibrium away from workers towards employers. The chapters in this book provide examples of how new forms of institutional experimentation are emerging, often at the intersections between these webs.

The chapters in this book provide perspectives on how the new 'patchwork of rules' has been challenged by contemporary developments such as the COVID-19 pandemic, the rise of global supply chains and new forms of business. The 2013 Rana Plaza disaster in Bangladesh is cited as an example of how increased public awareness of the desperate working conditions, which resulted in the deaths of more than 1,000 workers and injuries to many more, may have created a paradigm

shift in relation to the ‘patchwork of rules’. A global campaign spurred by the Rana Plaza disaster resulted in the factory owners being charged with murder and building violations. The Bangladesh Accord combined examples of all three webs in the ‘patchwork of rules’: collective regulation, voluntarism and institutional regulation. It is also an important case study in institutional experimentation. This was the kind of action which Willy Brown urged in terms of a new web of rules which combined ‘augmented pluralism’ with institutional experimentation in order to achieve more effective regulation of labour standards in the world of work.

The chapters in this book are grouped around four thematic sub-headings, each of which were at the heart of Willy Brown’s concerns about the need for institutional experimentation, namely: international comparisons, industrial relations campaigns, the rise (and possible decline) of HRM and issues relating to specific groups of workers, such as women, those in the gig economy, migrant workers and those disadvantaged by the operation of global supply chains which are driving down wages and conditions. Although much of Willy Brown’s research and writings concerned industrial relations and labour regulation in the UK, he pursued long-term interests in international developments in Australia, New Zealand, Europe and China.

Three chapters, in particular, highlight Willy Brown’s international engagement and illustrate the impact of his work around the world. The first example, by Colm McLaughlin and Chris F. Wright, examines the responses by trade unions in Australia, New Zealand and Ireland to neoliberal reforms of industrial relations since the 1980s. These countries, especially Australia and New Zealand, were among the first where stable pluralist industrial relations systems were challenged and undermined by governments with neoliberal reform agendas. The unions in each of these countries used a variety of strategies to protect labour standards from attacks by both employers and governments, with varying degrees of success. Willy Brown was engaged as an adviser on labour market reforms to Labor governments in Australia. This occurred during the Accord era, when Labor governments, led by Prime Ministers Bob Hawke and Paul Keating, introduced greater labour market flexibility combined with improvements in the social wage, during a period of economic deregulation.

Second, the development of the European Social Model, analysed in the chapter by Barry Colfer, is an example of the emergence of a patchwork of rules in the European context. Although the Maastricht Treaty of 1992 introduced the Social Chapter within the European Union, it was dismantled under the austerity agenda of European institutions after the post-2008 financial crises. While Willy Brown opposed the withdrawal by the UK government, led by Boris Johnson, from the European Union, the European Social Model and the patchwork of rules have been damaged by COVID-19 pandemic. It remains to be seen if Willy Brown’s hopes for the European Social Model are realised over time.

Third, improving the prospects for labour market and industrial relations reform in China were a major concern of Willy Brown during his final years. He was an Honorary Professor at Renmin University and advocated for the expansion of collective bargaining and improvement in labour standards. Two

of Willy's former doctoral students, Cheng Chang and Wei Huang, examine the shift from manufacturing to the internet economy in China and the implications for the wages and working conditions of Chinese workers. They conclude that the decline in manufacturing employment has been due to labour shortages and that a dual labour market, created by government policies, are constraining workers' career development. Willy Brown's optimism about prospects for reform in China have been sorely tested by recent reversals of earlier reforms.

This book is a fitting tribute to Willy Brown as a dedicated scholar, teacher and public intellectual whose influence on both the study and practice of industrial relations was universal. The work of his students, evidenced in this volume, demonstrates that his example and impact will continue into the future.

– Emeritus Professor Russell Lansbury,
University of Sydney

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Preface

This book is part of the Emerald series on *Trade Unionism: Changing Contexts and Shifting Paradigms*. Its focus is on how unions and other bodies are tasked with protecting the interests of workers in the context of rapid changes in the world of work. We are grateful to the chapter contributors, Russell Lansbury for providing the Foreword to this volume, and Marian Baird and Rae Cooper for their advice. We acknowledge the expertise and guidance provided by the publishers and editors at Emerald and the Series Editors Andy Hodder and Miguel Martinez Lucio. We thank all those at Darwin College, University of Cambridge for providing an infrastructure to bring us together as PhD students under the masterful supervision of the late Professor William Brown. We also thank our families who have supported us throughout every stage of this book.

Given the focus of this volume, it is fitting that the book also serves as a tribute to Willy who was a dear friend and mentor to the editors of this volume and most of the contributing authors. Much of Willy's research was guided by his concern for fairness at work and ensuring that the institutions tasked with regulating labour standards remained fit for purpose; a passion that he shared with and imparted upon this volume's contributors.

Prior to his untimely passing in 2019, Willy was one of the most significant industrial relations academics internationally over the previous four decades. His work had a major impact on the field both in terms of influencing research and shaping public policy.

Willy held several senior positions at the University of Cambridge in the UK for much of his career. He was the Montague Burton Professor of Industrial Relations from 1985 until his formal retirement in 2012. He served with distinction as the Master of Darwin College from 2000 to 2012. At various times, he was Chair of the Faculty of Economics and Head of the School of the Humanities and Social Sciences at Cambridge. He served as Chair of the Board of Studies at Cambridge and the Vice Chancellor's deputy from 2000 to 2008.

Willy also provided leadership in academic institutions, including serving as President of the British Universities Industrial Relations Association from 1986 to 1989 and as an executive committee member of the International Labour and Employment Relations Association (formerly the International Industrial Relations Association) from 1989 to 1995.

Willy's imprint on the industrial relations field is remarkable. He published six books and monographs and well in excess of 100 chapters in books and scholarly papers in high ranking international academic journals. His first book, *Piecework*

Bargaining, published in 1973, has become a classic in this field. *The Changing Contours of British Industrial Relations*, published in 1981, provided an authoritative account of the changing nature of industrial relations during a turbulent period in Britain. *The Evolution of the Modern Workplace*, published in 2009, used data from successive workplace surveys to analyse how collective bargaining gave way to a more individualised system of employment arrangements in the UK over several decades. In more recent years, Willy sought to advance understanding of the evolution of Chinese employment relations by publishing *The Emerging Industrial Relations of China* with Cambridge University Press.

Willy's scholarship was allied with a determined concern for fairness, notably evidenced in his work as an inaugural member of the Low Wage Commission and the introduction of the National Minimum Wage in the UK, as well as his contributions to the work of Acas and the Trades Union Congress.

Ever humble, Willy was awarded Commander of the British Empire in 2003 for 'services to employment relations' and an Honorary Doctorate by the University of Sydney in 2015 in recognition of his significant international contributions to industrial relations scholarship and policy. Willy's academic achievements and policy impact are matched only by his gold standard as a mentor where he had the rare ability to listen, be empathic and offer true insight.

We share the sentiments of Professor Peter Nolan, who in an introduction to a special issue of the *Industrial Relations Journal* in 2012 (volume 43, issue 4) marking Willy's retirement, reflected:

the papers reveal the breadth and depth of Willy's analytical and empirical investigations, his multidisciplinary approach to the subject and the enduring significance of his work for theory, policy and practice... An inspiration to past and present scholars, Willy's academic corpus will provide an essential point of engagement for future research in the field

Much of Willy's later research focussed on the evolution of Chinese employment relations and protecting labour standards in a global economy. He worked on several research projects funded by the UK and Chinese governments and was a consultant to the Chinese Ministry of Human Resources and Social Security. Willy was an Honorary Professor at Renmin University in Beijing and played an instrumental role in bringing together international and Chinese scholars to examine developments in Chinese employment relations.

Befitting the outstanding research and enormous international impact of Willy's work, in 2021 he was posthumously awarded the International Labour and Employment Relations Association Academic Excellence Award at the ILERA World Congress in Lund.

We dedicate this book to Willy.

– The Editors and Contributors

Introduction: New Institutional Arrangements for Safeguarding Labour Standards

Barry Colfer, Brian Harney, Colm McLaughlin and
Chris F. Wright¹

Abstract

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

Keywords: Collective bargaining; corporate social responsibility; employment contracts; employment relations; human resource

¹The chapter builds on a co-authored paper by Wright, C., Wood, A., Trevor, J., McLaughlin, C., Huang, W., Harney, B., ... Brown, W. (2019). Towards a new web of rules: an international review of institutional experimentation to strengthen employment protections. *Employee Relations*, 41(2), 313–330, which forms the basis of this collected volume. The paper was published as part of a Special Issue of *Employee Relations* on ‘The future of work and the future of unions’ to mark the 150th anniversary of the establishment of the UK Trades Union Congress (Nowak & Hodder, 2019).

management; institutional experimentation; insecure work; labour standards; statutory protections; trade unions

Introduction

The institutions that were once relied upon to protect workers' wages, conditions and job security are eroding. Since the 1980s, trade union membership has declined in most countries. So too have traditional forms of 'joint regulation' such as collective bargaining. A growing proportion of workers are engaged insecurely on temporary or short-term contracts or via platforms without the protections traditionally available to employees. It has become harder for many workers to negotiate decent wages, which has contributed to widening inequality. The growth of outsourcing and fragmented supply chains has made it difficult for employers to provide secure working arrangements and commitment-oriented human resource management (HRM). These trends and challenges have been accentuated by the global COVID-19 pandemic.

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

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

This volume serves as a tribute to Willam (Willy) Brown, whose work and mentorship was an immense source of inspiration for the editors of and contributors to this volume. Willy was a kind man and a brilliant scholar with a passion for ensuring that labour institutions evolved and adapted to the rapidly changing contours

of work and labour markets to ensure that their central mission of protecting fairness was maintained. The contributions examining institutional responses to these changes were developed from our discussions and collaborations with Willy. Our analysis also occurs as the world comes to terms with the COVID-19 global health pandemic and the immense impact this will continue to have on labour markets, welfare states, and on the very nature of the human condition.

The issues addressed here are currently those being confronted by workers, trade unions, and policy-makers across the globe. In this sense, the issues raised in this contribution are highly relevant in terms of both content and timing.

The Web of Rules

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

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

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

The Rise of Non-Standard Forms of Employment

In recent decades, what had come to be known as the 'traditional' or 'systemic' web of rules has contracted to cover a decreasing share of the workforce ([Brown & Wright, 2018](#)). This development is perhaps most evidenced in advanced countries

especially, though not exclusively, 'Anglo-American' countries with a liberal market tradition (Kochan & Riordan, 2016). This contraction has occurred due to various overlapping factors including: the emergence of many new forms of non-standard employment; the intensification of exogenous pressures on the employment relationship; the growth of intermediaries that separate management from the control of labour; and the emergence of entities that subvert the employment relationship entirely, as we argue below.

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

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

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

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

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

Notably, while it is indeed true to say that non-standard forms of work have grown, the standard contract of employment remains the dominant form of employment in most advanced economies (Adams & Deakin, 2014; Fudge, 2017). It is important therefore to caution against grand assertions and sweeping statements and to critically explore the available evidence (e.g. Soffia, Wood, & Burchell, 2021). Thus, while the proportion of workers covered by the standard employment relationship has declined throughout the world, the main elements of the traditional web of rules, including standard employment contracts and joint regulation mechanisms such as collective bargaining that traditionally sustained them, remain prominent in many countries. Even here, however, while macro-data continue to show tenure in the UK has remained stable over the past 40 years (Choonara, 2020), many of the traditional rules of employment, such as guaranteed hours, have been undermined. What is also apparent is an increasing polarisation, with the labour market composed of highly protected workers with permanent contracts in secure jobs (including in the public sector) working alongside highly precarious workers with unpredictable terms and conditions of employment with limited or no access to social protection. This polarisation is frequently evidenced within organisations, and indeed across employees in the same role. Moreover, this polarisation has accentuated existing inequalities and discrimination, which have impacted particular groups of workers, such as women, the young, migrant workers, and ethnic minorities. The gender pay gap, for example, is rooted in historical legacies of discriminatory pay setting norms underpinned by the ‘male breadwinner model’. Increased fragmentation of the labour market and outsourcing has made it difficult for some groups of women to take legal pay claims (Deakin, Butlin Fraser, McLaughlin, & Polanska, 2015) (McLaughlin, 2014; see Chapter 3, this volume). Nonetheless, as the web has contracted and as work relations have become more market mediated, new institutional arrangements have emerged in response.

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

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

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

The *second* is a voluntarist, employer-led web of rules, driven by corporate social responsibility (CSR) and high-commitment HRM. This has dominated public

policy discourse since the 1990s, and covers a broad range of labour market issues including gender and race equality, work–life balance, human rights abuses, and child labour in global supply chains. As societal expectations of corporate behaviour have changed, many businesses have adopted proactive strategies as part of a ‘business case’ for ethical behaviour, which includes reducing reputational and litigation risks and recruiting and retaining skilled employees (McLaughlin, 2019). This approach is particularly dominant in occupations and industries that have experienced considerable growth over the past quarter century. This includes white-collar private sector services industries, such as professional services and fast-moving consumer goods firms. These sectors are associated with the emergence of HRM and specifically talent management and a unitarist ideological undercurrent (Dundon & Rafferty, 2018; Geare et al., 2014). The relatively high individual bargaining power of professionals that characterise these industries on account of their scarce skills and mobility reduces the perceived necessity for union-negotiated and statutory minimum standards (Rousseau, 2015; Trevor & Brown, 2014). In this vein, contemporary high-commitment HRM practices are seen to ‘substitute’ for the governance, stability, and ‘people orientation’ provided for by the traditional web of rules (Harney, Dundon, & Wilkinson, 2018). The actual stability and security provided for by these employer-led rules (especially the context of financialisation and changing market dynamics) is something that we will explore in this volume.

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

Transcending these three webs are different types of institutional experimentation that have emerged in response to the growth of insecure forms of work. In some cases, these initiatives are designed specifically to protect workers on

non-standard employment contracts, rather than generalised standards that would be encompassed by the third web. In other cases, institutional experimentation comes in the form of localised, bottom-up, or specific initiatives developed by workers' representatives or advocates and/or by socially responsible businesses, typically in response to a lack of state regulation (Wright et al., 2019). Thus, the three webs are not mutually exclusive and can complement or sometimes operate in tension with each other.

In order to provide context for the chapters in this volume, the following section reviews some of the main manifestations of the regulatory contraction that have occurred.

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

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

Non-standard Forms of Employment Contracts

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

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

The introduction of portable entitlements that enable workers to access benefits that have been accrued from previous engagements are another protection mechanism for non-standard workers which have been introduced, for example, in France and Australia (Colfer & Ranft, 2019; Markey et al., 2016). Meanwhile,

Table 1. Manifestations of the Contraction of the Traditional Web of Rules and Institutional Experimentation Developed in Response.

Type of Contraction	Manifestation of Contraction	Institutional Experimentation
1. The emergence of non-standard forms of employment contracts	<ul style="list-style-type: none"> • Temporary/casual contracts • Fixed-term contracts • Zero-hour contracts • ‘Market-mediated’ variable contracts 	<ul style="list-style-type: none"> • Pay loadings • Differential employer taxation to encourage secure employment • Portable entitlements • Flexicurity • Labour cooperatives to provide greater certainty of regular employment
2. The expansion of sources of labour supply engaging in contingent work, for example, workers whose rights/agency are institutionally constrained	<ul style="list-style-type: none"> • Temporary migrant workers with restricted employment rights/mobility • Younger workers • Workers with care responsibilities with restricted working hours capacity 	<ul style="list-style-type: none"> • Community unions • Worker centres • Living wage campaigns • Social media facilitated networks and other forms of digital technology to represent younger workers, migrant workers, gig workers
3. The intensification of exogenous pressures on the employment relationship arising from fragmentation of production and service provision processes	<ul style="list-style-type: none"> • Supply chains • Franchising • Other forms of ‘fissured’ work arrangements • Financialisation • Public sector outsourcing 	<ul style="list-style-type: none"> • Codes of conduct • International framework agreements • Multi-stakeholder initiatives • Supply chain joint responsibility initiatives • Public procurement labour clauses
4. The growth of intermediaries that separate the management of labour from the control of labour	<ul style="list-style-type: none"> • Labour hire contractors • Agencies 	<ul style="list-style-type: none"> • Licensing and registration laws • Joint industry/union agreements to govern terms of labour hire engagement
5. The emergence of entities that replace the employment relationship entirely	<ul style="list-style-type: none"> • Online platforms associated with gig work • Contracting arrangements that produce ‘dependent self-employment’ 	<ul style="list-style-type: none"> • Joint industry/union agreements to establish standards • Legal reforms to extend employment-type protections