

## The Repertoires of Labour Market Regulation

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### Introduction

The regulation of labour markets is an important area of academic and public policy debate.<sup>1</sup> Increasingly, the value of traditional regulatory institutions, such as arbitration, is openly questioned by scholars, policy-makers and social actors themselves.<sup>2</sup> Much of the debate is concerned with defining the appropriate purpose of labour market regulation<sup>3</sup> (or the appropriate balance between what are seen as competing purposes<sup>4</sup>), and the related question of the appropriate means by which desired outcomes might be achieved.<sup>5</sup>

The purposes of labour market regulation are wide and varied, and extend well beyond the protective purpose with which it is traditionally associated.<sup>6</sup> While some aspects of labour law concern the protection of workers in what is assumed to be an unequal power relationship, labour market regulation may clearly serve many alternative – sometimes conflicting – purposes (and interests).<sup>7</sup> This diversity of purposes is reflected in the myriad of ways in which regulation has been used to regulate aspects of the general labour market, the organisation of work and employment at the organisational level, as well as the relation between an individual employer and worker. The aim of this chapter is to explore, in a preliminary way, the variety of labour market institutions and regulatory techniques that together constitute and regulate labour market

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- 1 Mitchell R, "Thinking About Labour Law: The Evolution of Ideas" (2004) 17 *Australian Journal of Labour Law* 213 at 216; Arup C, "Labour Market Regulation as a Focus for a Labour Law Discipline" in Mitchell R (ed), *Redefining Labour Law: New Perspectives on the Future of Teaching and Research* (Centre for Employment and Labour Relations Law, University of Melbourne, 1995), pp 29-61.
  - 2 Watson I, Buchanan J, Campbell I and Briggs C, *Fragmented Futures* (Federation Press, Sydney, 2003).
  - 3 Collins H, "Labour Law as a Vocation" (1989) 105 *Law Quarterly Review* 468.
  - 4 Collins H, *Employment Law* (Oxford University Press, Oxford, 2003); Gahan P and Mitchell R, "The Limits of Labour Law and the Necessity of Interdisciplinary Analysis" in Mitchell, *Redefining Labour Law*, above n 1, pp 62-89.
  - 5 Deakin S and Wilkinson F, *The Law and the Labour Market* (Oxford University Press, Oxford, 2005).
  - 6 See Mitchell and Arup (ch 1) in this collection.
  - 7 Gahan and Mitchell, above n 4, pp 66-67.

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