

The Law of the Labour Market: Industrialization, Employment, and Legal Evolution

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Abstract

The emergence of a 'labour market' in industrial societies implies not just greater competition and increased mobility of economic resources, but also the specific form of the work relationship which is described by the idea of wage labour and its legal expression, the contract of employment. This book examines the evolution of the contract of employment in Britain through a close investigation of changes in its juridical form during and since the industrial revolution. The initial conditions of industrialization and the subsequent growth of a particular type of welfare state are shown to have decisively shaped the evolutionary path of British labour and social security

law. In particular, the authors argue that nature of the legal transition which accompanied industrialization in Britain cannot be adequately captured by the conventional idea of a movement from status to contract. What emerged from the industrial revolution was not a general model of the contract of employment, but rather a hierarchical conception of service, which originated in the Master and Servant Acts and was slowly assimilated into the common law. It was only as a result of the growing influence of collective bargaining and social legislation, and with the spread of large-scale enterprises and of bureaucratic forms of organization, that the modern term 'employee' began to be applied to all wage and salary earners. The concept of the contract of employment which is familiar to modern labour lawyers is thus a much more recent phenomenon than has been widely supposed. This has important implications for conceptualizations of the modern labour market, and for the way in which current proposals to move 'beyond' the employment model, in the face of intensifying technological and institutional change, should be addressed.

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