



THE EVOLUTION OF LABOUR LAW IN THREE ASIAN NATIONS: AN INTRODUCTORY COMPARATIVE STUDY

(Abstract)

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Sean Cooney (University of Melbourne), **Peter Gahan** (University of Melbourne),
Petra Mahy (Monash University) and **Richard Mitchell** (Monash University)

Abstract

How do we understand the evolution of labour law in developing countries, and what does this understanding add to the current literature in comparative labour law? Some recent trends in comparative law have set out to explain the evolution of legal systems through highly generalised arguments that group countries according to their legal origins, the pattern of their development, and/or their particular regulatory style in shaping markets (including labour markets). With few exceptions, however, these lines of inquiry have engaged with developed rather than developing countries. Consequently, many of the issues dealt with remain open for examination in the nations of Asia, Latin America and Africa. The purpose of this paper is to engage with these comparative law debates by providing an historical account of the evolution of labour regulation in three countries: China, India and Indonesia. Our analysis is based on detailed templates tracing the history of legal developments in the modern era in relation to a range of key matters of work law, including the labour contract, labour standards and collective labour relations. The paper makes two major arguments. First, we maintain that there is a complex range of influences shaping labour law in each of the three countries, and that the extent of any particular influence (colonizing power, ILO standards, domestic political and economic factors, and so on) varies in relation to different aspects of labour law. In short, there are multiple, inter-related ‘origins’ of labour law. Second, we note that formal labour law systems often have limited and, in some cases, little or no application to most workers. This observation points to the need for further study identifying the nature and source of norms which regulate labour and work in practice.