

GLOBALIZATION AND LABOR STANDARDS (GALS) NEWSLETTER

Editor: Katherine V.W. Stone

**Student Editor:
Brendan Smith**

**Student Contributor:
Ritu Jain**

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Alien Torts Claims Act

Ramasastry, Anita, "Corporate Complicity From Nuremberg to Rangoon: An Examination of Forced Labor Cases and Their Impact on the Liability of Multinational Corporations", *Berkeley Journal of International Law* v. 20 no1 (2002) p. 91-151

Abstract:

The article looks at nature and degree of complicity that gives rise to liability on the part of multinational corporations (MNCs) that operate in countries with repressive regimes. Specifically, it examines lawsuits in United States against these MNCs for violations of public international law under the federal Alien Torts Claim Act (ATCA). It also views the historical origins of corporate complicity, and examines the outcomes of British and American war crimes tribunal set up after the Second World War. Further, the article compares and contrasts these historical cases with the recent case brought in the federal district court against Unocal Corporation for alleged use of force labor in its pipeline project in Burma. The article provides a critique of the most recent court decision on Unocal on the grounds that the decision did not distinguish between the wartime and non-wartime violations. The author argues that the cases involving corporate complicity during wartime are not directly analogous to cases related to MNC investment activities in modern conflict zones or in countries that continue to repress the rights of their people. Subjects: [Alien Torts Claims Act](#), [Forced Labor](#)

Ramsey, Michael D, "Multinational corporate liability under the Alien Tort Claims Act: some structural concerns", *Hastings International and Comparative Law Review* v. 24 no3 (Spring 2001) p. 361-380

Abstract:

The author argues courts should be hesitant in adopting an expansive view of multinational corporate liability under the Alien Tort Claims Act (ATCA). While not suggesting the outright abandonment of ATCA claims, the article raises several problems concerning ATCA corporate cases: 1) in order to accommodate ATCA corporate liability cases, courts must severely stretch the language of the statute, grounds for federal jurisdiction, state action requirements, and the bounds of liability under international law; 2) corporate ATCA litigation is likely to involve courts in substantial questions of foreign

policy on the basis of very thin statutory authorization; 3) ATCA litigation appears to be in conflict with the Supreme Court's ruling in *Sabbatino*, which held that separation of powers militate against court involvement in foreign affairs; 4) application of ATCA remains inconsistent with the near-unanimous academic rejection of the Helms-Burton litigation, which appears to seek a remedy for property crimes similar to that which the expanded ATCA seeks for human rights abuses; and 5) expansive ATCA claims risk devolving foreign policymaking authority onto a multiplicity of local district and appellate judges.

Subjects: [Alien Torts Claims Act](#)

Country-Specific Case Studies

Mantei, Charles T. (note: student author), "It Takes a Village to Raise a Child: The Role of The Organization of American States in Eliminating the Worst Forms of Child Labor in Brazil", *University of Miami Inter-American Law Review* v. 32 no3 (Fall 2001) p. 469-522

Abstract:

This note examines Brazil's attempts to adopt a comprehensive model for eliminating child labor with the assistance of the United Nation's Children Fund and the International Labor Organization (ILO). Part II defines child labor and analyzes the inherent social and developmental effects on Brazilian children and society at large. Part III offers a historical survey of the socio-economic and political roots of child labor. Part IV evaluates the modern Brazilian model, its application to national laws and social programs, as well as its interplay with national and international human rights initiatives. Part V and VI propose a regional plan for the elimination of child labor in Brazil with a focus on the integration of the ILO's International Programme for the Elimination of Child Labor (IPEC) initiatives within the Organization of American States. Finally, the author calls for a flexible, persistent, and cooperative policy approach to transform the underlying social psychology that perpetuate child labor in Brazil, and elsewhere in Latin America.

Subjects: [Country-Specific Case Studies](#), [Child Labor](#), [International Labour Organization \(ILO\)](#), [Organisation for Economic Cooperation and Development \(OECD\)](#)

Smith, Karen M., "Solving worker abuse problems in the Northern Mariana Islands", *Boston College International and Comparative Law Review* v. 24 no2 (Spring 2001) p. 381-407

Abstract:

The garment industry has long been criticized for treating workers poorly. Despite the attention that this problem has received in recent years, abuse continues to occur, extending even to the US territory of the Northern Mariana Islands. This Note argues that better control over immigration to the Northern Marianas may significantly reduce labor abuse. Part I presents a brief account of the history of the Northern Mariana Islands, its political relationship with the United States, and a synopsis of its present-day problems. Part II describes proposed federal legislation that attempts to remedy labor and

immigration issues, and explains why such legislation has consistently failed. Part III concludes that existing national US labor law, combined with local Mariana Island legislation, would supply adequate protection for garment workers if immigration to the islands were be more effectively controlled. To achieve this control, the author advocates that the federal Immigration and Nationality Act (INA) be extended to the Mariana Islands.

Subjects: [Country-Specific Case Studies](#)

Women's Rights

Charles J. Ogletree & Rangita de Silva-de Alwis, "When Gender Differences Become a Trap: The Impact of China's Labor Law on Women, A Study in International Labor Standards and Their Effect on Working Women", *Yale Journal of Law and Feminism* v. 14 no69 (2002)

Abstract:

This article examines the protectionist provisions of the Chinese labor laws, and compares these provisions to historic gender-based employment discrimination in the United States. Since 1978, China has steadily moved away from an employment system known as the "iron rice bowl" system in which the State guaranteed lifetime employment for every worker at the salary determined by the State. Instead, in the past two decades, a legal system protecting women's rights and interests has evolved which guarantees special, gender-specific rights to Chinese women under the Women's Rights and Interests Law. The article argues that by accommodating the reproductive roles of the women, the current law stereotypes Chinese women and reinforces traditional roles. Moreover, the added responsibility of employers to provide special treatment to women acts as a disincentive to hire women. The article concludes by suggesting that the Chinese state should foster the greater social good in a way that does not disadvantage women.

Subjects: [Country-Specific Case Studies](#), [Women's Rights](#)

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Labor and Global Change Database: <http://www.ilir.umich.edu/lagn/>

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Trade Unions and Labor Relations Database:
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The database, produced by the Institute of Labor Relations of the Otto-Suhr-Institute of the Freie University of Berlin, contains almost 7,000 citations of books, articles, working papers, brochures, proceedings etc. The bulk of the citations address aspects of labor relations in Germany, but there is a substantial body of literature in the database covering the EU and Eastern Europe.

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Project Director:

Katherine V.W. Stone

Professor of Law and Anne E. Estabrook Professor of Dispute Resolution
Cornell Law School and Cornell School of Industrial and Labor Relations