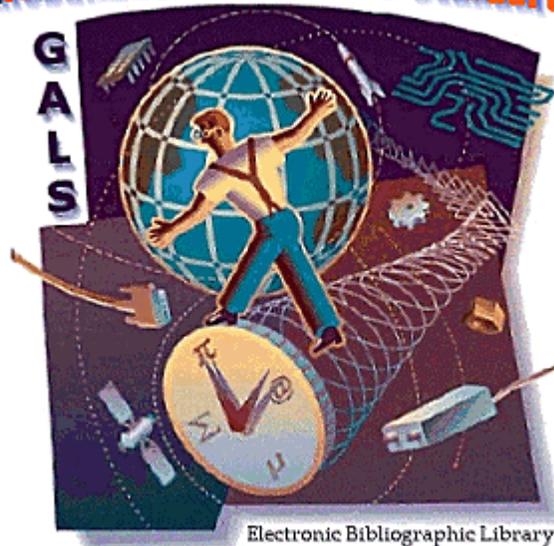


Globalization and Labor Standards



GALS Newsletter

October, 2003

Volume 2, No. 10

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Contingent Work

Befort, Stephen, "Revisiting the Black Hole of Workplace Regulation: A Historical and Comparative Perspective of Contingent Work", *Berkeley Journal of Employment and Labor Law* v. 24 no1 (2003)

Abstract:

This article discusses the rise of contingent work in the U.S. and the problems that result from the fact that a growing number of American workers do not fall under the protections of existing labor regulations. Befort argues that this regulatory black hole is not consistent with the intent of

labor regulation and creates a dual labor market in which there are a growing number of second-class workers. The author takes an historical perspective to understand how the changing workplace has evolved to leave these workers out. Befort identifies three main problems with existing labor regulations. First, threshold jurisdictional requirements are calibrated to a long-term employment model, not one in which workers change employers and status frequently. Second, the definition of covered employment under the regulations is subject to gross cases of entrepreneurial manipulation by employers. And third, Befort identifies a labor law void in leased and indirectly employed workers are not covered by the protections of the NLRA. The author turns to international comparisons to derive proposals for extending legal protections to cover this growing segment of the workforce. His specific proposals are: (1) to expand the reach of the existing labor regulations, (2) to give leased employees some collective bargaining options, and (3) to increase portability of employment benefits.

Subjects: [Contingent Work](#)

Labor Rights in General

Conaghan, Joanne, "Labour Law and New Economy Discourse", *Australian Journal of International Law* v. 18 no1 (March 2003)

Abstract:

This article explores the emergence of narratives and counter-narratives of the New Economy and the implications of these narratives for labor law, with particular reference to recent developments in Australian labor law and elsewhere. First, the author discusses the shifting theoretical characteristics of labor law, noting the contentious and evolving role of the New Economy discourse in this process. Second, the author examines the impact that this discourse is having on the scope and content of labor law. The author concludes by cautioning labor law scholars to approach the idea of the New Economy with caution and skepticism so as to prevent competing discourses from being eclipsed by any one super-narrative.

Subjects: [Labor Rights in General \(Misc.\)](#)

World Trade Organization

Guzman, Andrew T., "Trade, Labor, Legitimacy", *California Law Review* v. 91 no3 (May 2003)

Abstract:

This article argues that the contours of the uneasy relationship between trade and labor should be determined through a political process of negotiation rather than the quasi-judicial dispute resolution process of the WTO. Part I discusses the ambiguous legal framework governing trade and labor and the lack of a normative consensus regarding the design of an appropriate framework. Part II argues that the WTO as currently constituted is ill-suited to resolve the trade

and labor issue because the institutional structure of the organization will cause undue weight to be given to trade interests at the expense of labor interests. Part III suggests reforms, the key to which is the creation of independent trade and labor departments within the WTO, that would make the WTO a sensible forum for addressing the issue. The author urges his proposal as an imperfect but necessary means of producing a negotiated, consensual agreement with an organization that, if properly reformed to include both labor and trade specialists, will not be unduly biased.

Subjects: [World Trade Organization \(WTO\)](#)

Books of Interest - **NEW!**

Hepple, Bob, ed., *Social and Labor Rights in a Global Context: International and Comparative Perspectives*, (Cambridge University Press, 2002)

This volume assembles the proceedings of a 2001 conference at Cambridge marking the anniversary of the foundation course on Labor Law. The articles address the tension between labor rights and social rights in a variety of countries including the UK, the US, France, Germany, Italy, Japan, and South Africa. The articles also take up the problematic intersection of regional and international social and labor rights edicts as they clash with national regulation and implementation frameworks. The key organizing question of the volume is: Does the new rhetoric of social rights---as embodied in instruments such as the ILO declaration of Fundamental Rights and Principles at work (1998) and the EU Charter of Fundamental Rights (2000)—match the reality of the new world of market regulation and global inequality? The authors point out the difficulties, institutional and political, in managing new regulations as most governments think flexibility is critical for economic competitiveness. They point out that current social and labor rights have eroded in recent years and that new regulations tend to focus on individual rather than collective rights. In addition, constitutionalization does not appear to solve the problem of enforcement and lack of enforcement promotes competition between places. The authors see a possibility for grassroots mobilization to motivate the integration of social and labor rights beyond the existing institutional frameworks. Contributors include: Lord Wedderburn, Paul O'Higgins, Manfred Weiss, Silvana Sciarra, Catherine Barnard, Simon Deakin, Ivan Hare, Antoine Lyon-Caen, Cynthia L. Estlund, Takashi Araki and Bob Hepple.

Links to Related Projects

ETUI Labourline: <http://www.labourline.org/Etui>

ETUI Labourline is a database of European labor information resources covering European, international and comparative aspects of industrial relations and health and safety issues, developed by the Documentation Centres of the European Trade Union Institute and the European Trade Union Institute for Health and Safety (Brussels). The consolidated bibliographic database contains more than 20,000 references to documents focusing on industrial relations, and more than 15,000 references to documents on health and safety issues.

LabourWeb: <http://www.lex.unict.it/eurolabor/en/>

The Labour Web is a comprehensive documentation center for information about European labor law, social law, industrial relations and the welfare state. It contains up-to-date versions of European Union law, directives, pending directives, EU news, press releases, economic statistics and decisions of the European Court of Justice. It also contains a Working Papers series and subject matter reports (dossiers) on issues concerning European integration. The site also provides links to other websites that contain working papers, statistical reports, and other information about social, economic and industrial relations affairs in the European context. It is run by the Massimo D'Antona Centre for the Study of European Labour Law, at the Faculty of Law of the University of Catania.

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

The Labor and Global Change Database provides bibliographies, citation information and (where available) web links to the full text of research exploring connections between labor and globalization. The database aims to provide researchers with an easy means to make the results of their work widely available to other scholars and the interested public. The database is run by and continually updated by the Labor and Global Change Program of the University of Michigan.

Trade Unions and Labor Relations Database: <http://www.polwiss.fu-berlin.de/tu/english/>

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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