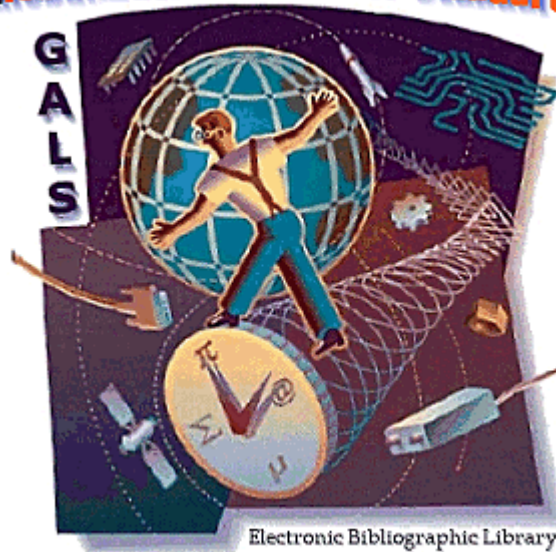


Globalization and Labor Standards



GALS Newsletter

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Employee Privacy

Rojas, Hugo, "Labor Law and Genetic Discrimination in Chile", *Florida Journal of International Law v. 16 (2004) p. 561-581*

Abstract:

Professor Rojas discusses (1) the effects that the Human Genome Project could have on a worker's privacy and discrimination in the workplace, and (2) how the legal system in Chile should react to these potential dangers. The author argues that unless greater legal protections are provided, employers could request employees and future applicants to undergo genetic testing, under the guise of seeking higher productivity. Rojas notes that currently, employers request medical records and testing when the employee will be subject to significant risks, such as working in mines at high altitudes. Rojas is concerned that if no further legislation is enacted in Chile, employees will be pressured to waive their genetic privacy to get a job, and that employers will then use the genetic information to discriminate against current and potential employees. The author contends that, although the Chilean Constitution and the Labor Code generally the dignity and privacy of every individual and forbid employment discrimination, the laws are not sufficient to protect workers from pressures that employers place on them to report genetic information as a condition of employment. Rojas also criticizes legislation that is currently proposed in the Chilean Congress concerning genetic research on the grounds that it does not adequately address labor issues. The author urges the legislature instead to approve explicit regulations punishing genetic discrimination and to set limits on the employer's right to genetic information.

Subjects: [Country-Specific Case Studies](#), [Employee Privacy](#), [Workplace Discrimination](#)

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International Labour Organization (ILO)

Kolben, Kevin, "Trade, Monitoring and the ILO: Working to Improve Conditions in Cambodia's Garment Factories", *Yale Human Rights & Development Law Journal no7 (2004) p. 79-120*

Abstract:

Professor Kolben discusses the design and implementation of a compliance program that resulted from a labor standards provision of U.S.-Cambodian Bilateral Trade Agreement, signed in 1999. The author notes that the compliance program was novel because (1) it used trade incentives to enforce worker rights, and (2) it calls on the ILO to conduct factory level monitoring. Kolben's article provides an overview of the Cambodian textile industry labor problems before the Agreement, the relevant labor provisions of the Agreement, the context within which the Agreement was enacted, the two ILO monitoring proposals that preceded the current compliance program, and the current program. He critiques each of the two proposals and the resulting program. He argues that, although combining trade strategies and ILO monitoring in the Cambodian compliance program is a step in the right direction, the current program suffers from insufficient mechanisms to encourage individual company compliance; a lack of definition of "substantial compliance," insufficient mechanisms to respond to employee complaints; unequal sharing of the evaluation document with workers and their representatives; and a focus on the comprehensive Cambodian Labor Code standards instead of internationally-recognized labor rights. Overall, the author calls on the ILO to employ more "factory monitoring programs that are transparent and work to build independent and democratic trade unions."

Subjects: [Country-Specific Case Studies](#), [International Labour Organization \(ILO\)](#), [Trade Conditionality](#)

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Industry-Specific Case Studies

Finley, Maxmillian, "The Bitter with the Sweet: The Impact of the World Trade Organization's Settlement of the Banana Trade Dispute of the Human Rights of Ecuadorian Banana Workers", *New York Law School Law Review* no48 (2004) p. 815-860

Abstract:

In this Note, the author examines how the World Trade Organization's Settlement of the banana trade war affected Ecuadorian banana workers. The author argues that the resolution will not benefit the workers because the Ecuadorian government and multi-national corporations profit from denying workers their basic human rights to organize and form unions. Finley notes that although the Ecuadorian Constitution and Labor Code give employees the right to organize, the laws do not require workers to be reinstated who have been fired for organizing activities. Additionally, the growing use of permanent, temporary, and subcontracted labor means that many banana workers are not recognized as "employees" under the law and hence receive no protection. Finley contends that multinational corporations contribute to the problem by using guaranteed supply contracts with banana producers in lieu of directly owning plantations. As a result, multinational corporations avoid liability for labor violations by shifting the responsibility to the local producers with whom they contract. The author observes that the Ecuadorian workers might be able to bring lawsuits against the U.S. multinational corporations in U.S. courts under the Alien Tort Claims Act. However, because most Ecuadorian workers do not have the time and resources to pursue litigation, Finley contends that the U.S. legislature should suspend aid and benefits to Ecuador to send a strong message of disapproval. Finally, Finley proposes actions that Ecuador and multinational corporations can take to provide the Ecuadorian workforce with the right to organize.

Subjects: [Alien Torts Claims Act](#), [Contingent Work](#), [Country-Specific Case Studies](#), [Industry-Specific Case](#), [World Trade Organization \(WTO\)](#)

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Links to Related Projects

Asian Law Center: <http://www.law.unimelb.edu.au/alc/bibliography/browse.asp?s=45>

The Asian Law Centre, an initiative of the University of Melbourne Law School, devoted to the development of understanding of Asian law, offers an extensive bibliography of Asian labor law articles and reports.

Centre for Employment and Labour Relations Law: <http://www.law.unimelb.edu.au/celr/>

Centre for Employment and Labour Relations Law is a research and teaching center devoted to the development of an understanding of labor law at the University of Melbourne. The Center's website describes the activities of the Center and contains links to several databases that are of interest to labor law scholars and practitioners. For example, the Center's Work Relations Law Project contains extensive information about Australian labor law that can be accessed directly at <http://www.austlii.edu.au/au/special/industrial/>.

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.

Globalization Bulletin: <http://www.rci.rutgers.edu/~dbensman/bulletin.html>

The Globalization Bulletin is a weekly e-newsletter providing linked access to the latest articles, research, and web resources on a range of global labor issues—ranging from union organizing and labor markets to immigrations and trade agreements. The Bulletin is produced by the Globalization Task Force of the New Jersey Division of the United Nations Association-USA and the Department of Labor Studies and Employment Relations School of Management and Labor Relations, Rutgers University. To subscribe, email David Bensman at dbensman@smlr.rutgers.edu.

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.

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.

The Marco Biagi Centre for International and Comparative Studies:<http://www.csmb.unimo.it>

The Marco Biagi Centre for International and Comparative Studies at the University of Modena and Reggio Emilia, Italy, functions as policy resource center on comparative labor issues. Besides publishing books and law journals, the Center provides a clearinghouse of international law journals, including the International Journal of Comparative Labour Law and Industrial Relations (<http://www.csmb.unimo.it/journal.html>). Currently only in Italian, the Center's website will soon offer an English version.

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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