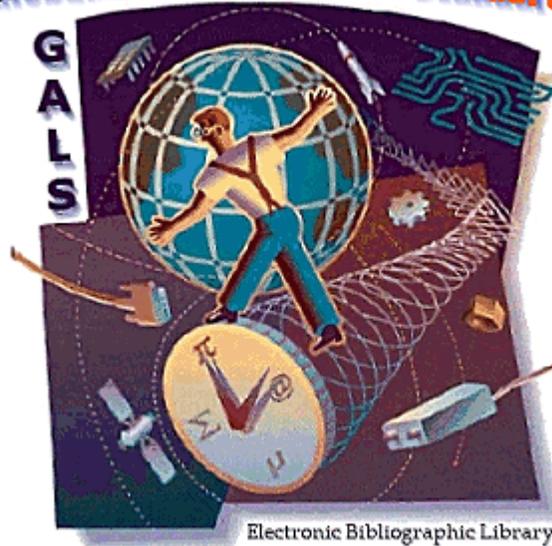


Globalization and Labor Standards



GALS Newsletter

May, 2006

Volume 5, No. 5

Katherine V.W. Stone – Editor and Project Director

Managing Editor:
Brendan Smith

Student Contributors:
Jennifer Ku
Angela Jamison
Linda Bassett Husain

Tech Advisor:
Sasha Skenderija

The Globalization and Labor Standards Bibliographic Library is sponsored by
UCLA School of Law and the UCLA Institute of Industrial Relations

The complete GALS Library is available at <http://www.laborstandards.org>.
New subscribers can use gals-request@lists.ucla.edu to be placed on the GALS list-
serve. Information about how to sign up for this free service is [available below](#).

NEW The Globalization and Labor Standards Project has initiated a Working Papers Series. GALS Working Papers can be found at in PDF format at www.laborstandards.org. They are listed separately as well as cross-referenced and integrated into the GALS library. The library contains links to the full text of the Working Paper. GALS Working Papers are also listed in the newsletter.

Country-Specific Case Studies

Ohmi, Naoto, "Problems of Foreign Worker Policy in Japan - From the Labor Union Viewpoint", *Japan Labor Review* v. 2 no4 (Fall 2005) p. 107-124

Abstract:

The author, a trade union officer, expresses his views on the issue of foreign workers in Japan. The first section reviews the various issues that arise with the increased number of non-Japanese workers in Japan, including the rise of indirect employment (i.e., dispatch or contract workers), the rise of foreign residents working illegally, and the abuse of foreign trainee programs by employers. The next section discusses Japan's increased focus on free trade agreements ("FTA") and economic partnership agreements ("EPA") with other countries. The author focuses on occupations in the medical and nursing field where there is a shortage in Japan and conflicting views by the Japanese government in allowing foreign workers to fill that gap. The author then examines Rengo's (Japan's nationwide organization of labor unions) views on foreign workers, which advocates the respect of human rights of all foreign workers residing in Japan, but cautions against the acceptance of unskilled foreign workers. The fourth section examines the economic partnership agreements that Japan has with Thailand and the Philippines, both which require the foreign workers from their respective countries to obtain Japanese certification before they are allowed to work in the nursing field in Japan. The article concludes with a discussion of the current labor policy on foreign workers. He argues that the existing policy of only addressing 'entry' issues (i.e., entry requirements, residential statuses) is not sufficient to respond to the issue of foreign workers in Japan, and stresses the importance of adopting a 'post-acceptance' policy to deal with the long-term social and economic effects.

Subjects: [Contingent Work](#), [Country-Specific Case Studies](#), [FTA](#), [Immigration](#)

Extraterritorial Application of Law

Keithley, Todd, "Does the National Labor Relations Act Extend to Americans Who Are Temporarily Abroad?", *Columbia Law Review* v. 105 no2135 (November 2005) p. 1-35

Abstract:

This article addresses the issue of whether the protections of the National Labor Relations Act ("NLRA") apply to Americans who are temporarily abroad. The first section discusses the two circuit courts that have ruled on this question of extraterritoriality. In 1992, the Eleventh Circuit in *Dowd* concluded that Congress intended the NLRA to apply to the extraterritorial conduct and thus ruled that U.S. unions had engaged in an unlawful secondary boycott by acting in concert with some Japanese unions in Japan. However, in 2004, the Third Circuit, in *Asplundh*, adopting a strict territoriality view and ruled that the Act did not protect American tree trimmers who were fired for concerted activity while on temporary assignment in Canada. The next section addresses the two doctrines that are critical to the question of temporary work abroad: (1) the presumption against extraterritoriality and (2) the presumption of comity, i.e. that when Congress legislates, its intention is to respect the customary conventions of international law. The author argues that the problems of mixed-territory conduct and workplaces support a 2-step analysis. In step one, the court would ask whether the conduct caused intentional and harmful effects in the U.S. If so, it is not "extraterritorial," and then the court would move on to the second step, which asks whether the bringing the conduct under the Act would offend notions of comity. In the last section, the author reexamines *Asplundh* under this 2-step analysis, concluding that the American company should have been held accountable for its actions in Canada.

Subjects: [Country-Specific Case Studies](#), [Extraterritorial Application of Law](#)

Full-text links: || [WESTLAW](#) || [LEXIS-NEXIS](#) ||

European Union

Visser, Jelle, "More Holes in the Bucket: Twenty Years of European Integration and Organized Labor", *Comparative Labor Law & Policy Journal* v. 26 (Summer 2005) p. 477-521

Abstract:

This article seeks to answer the question of whether the role of intermediaries such as labor unions will be diminished or eliminated as the European Union continues to adapt to a globalized economy. The first section examines how changes in the labor market (e.g., decentralization of the workplace, heterogeneity of society), and diversification of employment statuses (e.g., temporary, short-term) have led to a new focus on choice by the individual worker and the firm, as opposed to equality in forming labor regulation. The second section explores the current status of labor unions by looking at their density (proportion of members), presence (proportion of workplaces where unions present), coverage (proportion of workplaces whose terms of employment influenced by collective bargaining agreements), and representation (recognition and presence). The author finds that although there has been a general decrease in density and presence, coverage and representation have remained stable. He argues that this shows that there is government as well as public support of unionism. The third section looks at how international competition has led Europe to customize labor regulations by allowing Member States, firms, and individuals to opt-out of common minimum standards. The author queries why international coordination between labor unions is not an adequate method of countering this trend. He concludes that the opt-out option is based on a new partnership approach that leaves labor unions out of the equation, to the detriment of all parties involved. The last section analyzes the limits of the current practice of 'voluntary' agreements and guidelines based on public recommendations and a consensus on 'best practice,' and questions whether these non-binding methods have any effect at all. The article concludes that labor unions in the EU have been weakened as labor regulation has become less collective as well as less ambitious.

Subjects: [Collective Bargaining](#), [Contingent Work](#), [European Union](#), [Labor Rights in General \(Misc.\)](#)

Full-text links: || [WESTLAW](#) || [LEXIS-NEXIS](#) ||

Links to Related Projects

The International Labour Organization's (ILO) Informal Economy Resource Database:
<http://www.ilo.org/dyn/infoecon/iebrowse.home>

The Informal Economy Resource Database contains a myriad of ILO activities, research or tools directly or indirectly related to the informal economy and decent work. This source is a "living"

and dynamic inventory of information on labour issues relating to the informal economy, such as access to finance, data and statistics, employment, gender equality, policy, rights, social protection and working conditions. It is a valuable tool for anyone undertaking research or working on labour issues and the informal economy.

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/celrl/>

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.

GALS Information

You can view the entire GALS bibliography and database at <http://www.laborstandards.org>.

If you have colleagues who may be interested in this service, send them the following instructions on how to subscribe:

To subscribe to the **GALS Newsletter** send the following email to
gals-request@lists.ucla.edu

Subject: *[leave blank]*
First line of the message: **SUBSCRIBE**

If you would like to unsubscribe to the **GALS Newsletter**, please email gals-request@lists.ucla.edu with the following text:

Subject *[leave blank]*

First line of the message: **UNSUBSCRIBE**

For any problems or questions, please email to Brendan Smith, at GALS@laborstandards.org.

The **GALS Bibliographic Library** is provided by the [UCLA School of Law](#) and the [UCLA Institute of Industrial Relations](#).

Project Director:

[Katherine V.W. Stone](#)

UCLA School of Law