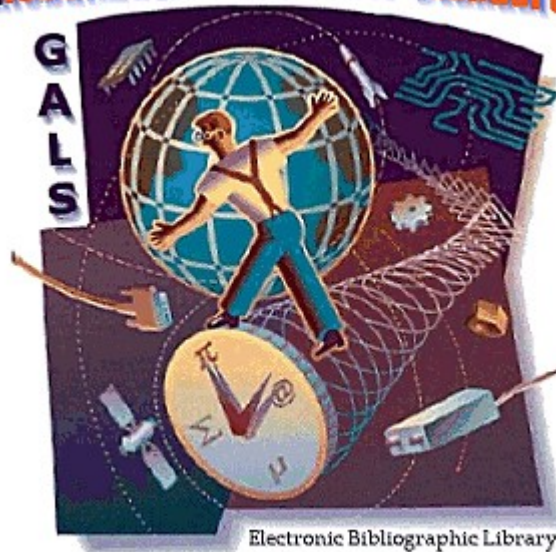


# Globalization and Labor Standards



## GALS Newsletter

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## Affirmative Action

Jain, Sumeet, "Tightening India's 'Golden Straitjacket': How Pulling the Straps of India's Job Reservations Scheme Reflects Prudent Economic Policy", Washington University Global Studies Law Review v. 8 no3 (2009) p. 567-793

Abstract:

In response to rampant discrimination and a shrinking public sector, activists and politicians are advocating that India's job reservations regime, by which a percentage of public jobs at the state and national level are set aside for historically disadvantaged populations, be expanded into the private sector. The author opposes such an expansion, speculating that increased regulation would deter foreign direct investment and thereby harm the Indian economy. The author also contends that the scheme is harmful—or at best, ineffective—for those it was designed to help, lower-caste individuals who are disproportionately concentrated in the lowest-rungs of government employment. Jain argues that India should restrict the scope of affirmative action to situations where it would “ultimately contribute to a more business-friendly environment.” He calls this tightening India's “golden straitjacket.” He further urges India to adopt an incentive system, like that used in South Africa, to encourage private employers to hire workers from disadvantaged classes.

**Subjects:** [Affirmative Action](#), [Country-Specific Case Studies](#), [Employment Law](#)

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

**Baker, Roozbeh (Rudy) B., "Balancing Competing Priorities: Affirmative Action in the United States and Canada,"** *Transnational Law & Contemporary Problems* v. 18 no3 (Fall 2009) p. 527-543

**Abstract:**

Baker examines the inherent tension between “equality rights” -- the notion that government should not discriminate by treating some citizens differently than others -- and affirmative action. While a highly formalistic interpretation of equality rights reigns in US constitutional jurisprudence, favoring equal treatment over equal outcomes, Canadian courts have instead focused on substantive equality. In Part II, the author details the “American approach,” arguing that strict scrutiny review is, in essence, a balancing of government interests in remedial programs against the interests “of the individuals against whom the law discriminates,” with the interests of the individuals usually overriding that of the government. The Canadian paradigm is covered in Part III, where Baker discusses a seminal 1993 case where the court balanced the “relative disadvantage” of the target class served by the law against that of citizens who suffer “reverse discrimination,” and found in favor the program's corrective results. In Part IV, Baker compares the two approaches, arguing that the U.S. uses strict scrutiny review as a “shield protecting equal protection guarantees against the unequal effect of race-based...programs,” while in Canada, the test is a “sword,” whereby the nation's courts “save” laws, rather than invalidate them. In response to the incompatibility of affirmative action and equal treatment norms, both countries have struck “polar opposite” priorities, leading, in Baker's view, to not one but two imperfect systems.

**Subjects:** [Affirmative Action](#), [Country-Specific Case Studies](#), [Employment Law](#), [Workplace Discrimination](#)

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## 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.

**International Labour Organization's (ILO) Conditions of Work and Employment Laws**

<http://www.ilo.org/travdatabase>

The Program maintains a Database of Conditions of Work and Employment Laws, which provides information on laws from around the world. The database covers measures on minimum wages, working hours and holidays, and maternity protection and provides information on around 130 countries from all regions.

**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](mailto:dbensman@smlr.rutgers.edu).

**International Social Security and Workers Compensation Journal:**

<http://www.business.curtin.edu.au/business/research/journals/international-journal-of-social-security-and-workers-compensation>

The International Social Security and Workers Compensation Journal is an on-line journal that focuses on international scholarship in the areas of social security, workers compensation, and occupational health, and disability support. It is published by the School of Business Law, Curtin Institute of Technology in Perth Australia. The IJSSWC contains inter-disciplinary articles in fields such as law, occupational medicine, health economics, and disability studies.

**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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