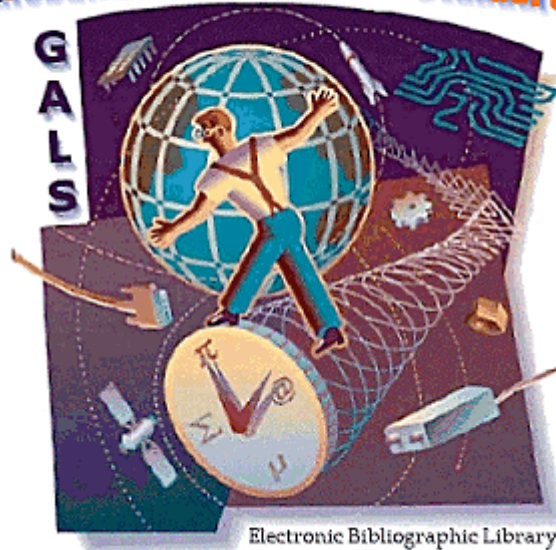


Globalization and Labor Standards



GALS Newsletter

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Katherine V.W. Stone – Editor and Project Director

Managing Editor:
Brendan Smith

Student Contributors:
Lincoln Ellis
Brian Maucotel
Christina Gallo

Tech Advisor:
Salman Quazi

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Short Takes

**Brief updates on labor law developments
In different parts of the world**

International Labor Organization Proposes New Convention on Domestic Work

The International Labor Organization (ILO) released a Report earlier this year, entitled “Decent Work for Domestic Workers,” that recommends the adoption of a Convention to protect the rights of domestic workers. The Report is based on a comprehensive survey of member nations’ laws and practices regarding the treatment of domestic workers.

In the survey, the ILO received responses from the governments of seventy-five member states. The first question —“Should the International Labor Conference adopt an instrument or instruments concerning decent work for domestic workers?”— was overwhelmingly answered in the affirmative by all but 2 of the nations that responded. Furthermore, sixty-four of sixty-eight responsive nations affirmed that the convention should provide that each Member should take measures to ensure that domestic workers...have: a) fair terms of employment...b) a safe and secure workplace; and (c) social security including maternity protection.

The Report found that across the world, tens of millions of domestic workers, mostly women, perform domestic labor that is “undervalued and invisible.” Given that women are “particularly vulnerable to abuses of basic human rights and to discrimination in respect of employment and working conditions,” the report proposes that member nations apply basic and fundamental principles of the ILO to domestic work. Such principles include freedom of association and the right to negotiate collectively, the elimination of forced and compulsory domestic labor, of domestic work by children, and of workplace discrimination.

The Report defines domestic work broadly as “work performed within an employment relationship in or for a household or households.” It recommends the adoption of substantive provisions guaranteeing a minimum wage; a minimum working age of eighteen; decent living conditions, where applicable; hours of work and rest time; and overtime compensation.

The report also proposes that nations implement measures to ensure domestic workers are informed of and able to exercise their rights. For instance, one recommendation would require employers to provide domestic workers with notice of the terms and conditions of their employment—including the employers’ name, address, normal work hours, rate of pay, and duration of the contract.

Because many domestic workers are migrants and are particularly vulnerable to exploitation on that basis, the report recommends several measures that specifically address immigration-related concerns. For example, the report states that domestic workers should be allowed to retain possession of their identity documents. Additionally, the report proposes member nations promulgate laws or regulations that require employers to give workers written contracts prior to crossing borders and laws that specify the conditions under which migrants are entitled to return to their home countries following the expiration or termination of the employment contract.

As a general matter, the Report encourages member states to integrate domestic workers, who often labor in the informal sector, into the mainstream economy through the promulgation of new laws and regulations and the extension of existing ones to cover domestic workers. In this vein, the Report calls for nations to provide domestic workers access to dispute resolution procedures, social security coverage, and maternity care.

In the aftermath of the survey and the Report, the ILO Annual meeting will take up the issue of Domestic Work for the first time at the 99th Annual International Labour Conference in June, 2010.

Country-Specific Case Studies

Feng Xu, "Labor Law Developments in China: The Emergence of Temporary Staffing Agencies in China", *Comparative Labor Law & Policy Journal* v. 30 no2 (2009) p. 431-461

Abstract:

Xu’s article discusses the rise of the temporary staffing, or “labor dispatch,” industry in recent decades in China. Xu argues that these agencies are part and parcel of the government’s efforts to create a flexible

labor market, to dismantle the “iron rice bowl” of lifelong employment in cities and to address the ensuing unemployment of urban dwellers and rural migrants, while also stimulating foreign direct investment. The labor dispatch agencies are owned and operated by a combination of local companies, transnational staffing companies, and state-owned enterprises. The 2007 Labor Contract Law regulated labor dispatch companies for the first time, thereby legitimating the industry and cementing the “triangular employment relationship” between the agencies, firms, and workers. This relationship has given firms the ability to evade the formation of contracts with workers, thereby increasing job insecurity, undermining wages and conditions, and generating more informal employment.

Subjects: [Contingent Work](#), [Corporate Accountability](#), [Country-Specific Case Studies](#), [Labor](#)

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

Labor Rights as Human Rights

Kolben, Kevin, "Labor Rights as Human Rights?", *Virginia Journal of International Law* v. 50 (2010) p. 449-484

Abstract:

The labor movement and labor scholars, particularly in the U.S., are increasingly couching labor rights as fundamental human rights in domestic labor law reform efforts and corporate and grassroots organizing campaigns. Their embrace of a human rights discourse is part of a strategy on the part of unions and workers' rights NGOs to capitalize on its “hegemonic status” both at home and internationally. Kolben argues that the invocation of this discourse and the application of an international human rights legal framework do a disservice to the goals of the labor movement, goals which include strengthening workplace democracy and pursuing economic justice. For example, the human rights model is oriented toward protecting individuals' rights against state power—not facilitating the empowerment of collectivities in the private employment context. Furthermore, the human rights and labor movements part ways on foundational matters: the former is driven by elites, rather than rank-and-file workers; the former employs law as an end, rather than a means; the former promotes individuals, rather than collectives; and the former is more concerned with charity towards “victims” rather than promoting agency through collective bargaining and direct action. Kolben concludes that at a minimum, labor's invocation of a human rights frame is ineffective at best, “debilitating” at worst.

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

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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.

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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Project Director:

[Katherine V.W. Stone](#)
UCLA School of Law