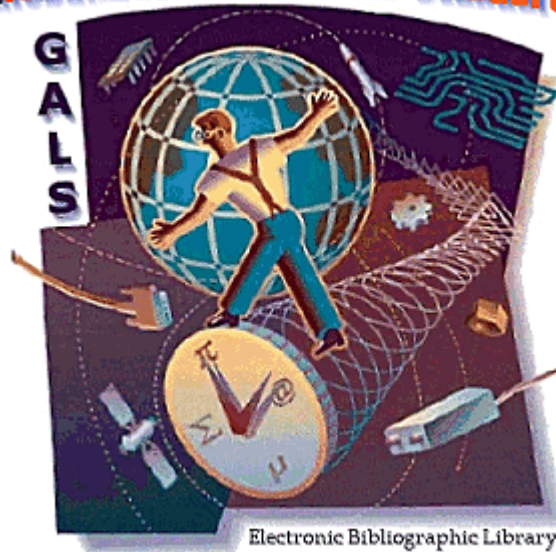


Globalization and Labor Standards



GALS Newsletter

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Short Takes

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

**Labor and Employment Law in China: The Labor Contract Law and Other
Recent Changes**

Just over three years after the implementation of China's Labor Contract Law (LCL), scholars are busy considering the effect of that law and others on Chinese workplaces. The

Labor Contract Law took effect January 1st, 2008, after China's legislative body, the National People's Congress, voted to pass the LCL in June 2007. The LCL extends rights to employees across China who were hired in 2008 or later, but does not apply retroactively. For this reason, some foreign companies, notably Carrefour, asked or required employees to sign new contracts at the end of 2007, just before the LCL came into effect. This strategy effectively preempted the implementation of LCL for existing employees until the end of their contracts under the previous law. It also had the effect of prolonging the practice of temporary contracts that were common prior to the LCL, and delaying the implementation of the superior contracts required under the LCL.

Now, three years later, most workers in China are covered by contracts that must adhere to the LCL's higher standards. Workers covered by the LCL face a shorter probationary period, which varies between one and six months, depending on the length of the ensuing contract. Once the probationary period expires workers are entitled to just-cause termination protection, severance pay, and restrictions on employer-favored non-compete clauses. One of the biggest changes is the creation of a private right of action for employees to challenge a termination, which many employees have utilized, according to government statistics. Another important change in Chinese employment law was the 2008 Employment Promotion Law (EPL). Like its predecessor, the law prohibits discrimination on the basis of ethnicity, race, gender, or religion. However, the EPL goes further by also prohibiting discrimination protection based on migrant worker status, Hepatitis B, age or disability. The EPL also seeks to protect Chinese workers, by giving preference to employing Chinese nationals with the same qualifications as a foreign applicant. Coupled with the new private right of action, the EPL represents a potentially significant change. Moreover, a new arbitration system has expedited the pace at which workplace disputes are resolved.

Many scholars have argued that these changes have emboldened China's official trade union, the All-China Federation of Trade Unions (ACFTU), to more assertively defend employees' interests. The ACFTU has increased its efforts to organize "bottom-up" campaigns, approaching workers directly to gain support, rather than working through management. The ACFTU may also be feeling pressure to organize new work places because of increasing numbers of wild-cat strikes. By organizing a workplace and making demands on an employer, the chance of work stoppages arguably decreases. Although many speculated that these changes would discourage foreign direct investment in China, foreign companies have by and large chosen to remain in China, even with higher labor costs.

Although the impact of these labor reforms on wages and working conditions for Chinese workers is not yet known, they seem to provide more due process and protections for Chinese workers and may also contribute to a more robust and proactive union movement.

Lincoln Ellis

Domestic Work

Chuang, Janie A., “Achieving Accountability for Migrant Domestic Worker Abuse,” *North Carolina Law Review* v. 88 no5 (June, 2010) p. 1627-1656

Abstract:

This article discusses the plight of migrant domestic workers through a two-part analysis. In Part I, Chuang examines the global push-pull that has created a booming market for domestic workers. In underdeveloped countries, women are pushed to the North with the goal of making a decent wage and sending remittances back home. In receiving countries, a modern “care deficit” transfers unwanted household labor from middle and upper class women to migrant domestic workers. While domestics are “needed” by their First World recipients in an economic sense; cultural, gender, ethnic, and immigration-based oppression lead to deplorable work conditions. Further, while there are few international or national legal protections for domestic workers, Chuang argues that there may be hope through human trafficking legislation. In Part II, Chuang presents a case study of the trafficking of migrant domestic workers in the United States by foreign diplomats. While such cases are probably a small portion of domestic worker abuse, a combination of worker vulnerability and diplomatic immunity have prompted domestic worker organizing and legislative action. The article concludes with an examination and critique of current efforts by Congress and the State Department to protect trafficking victims.

Subjects: Country-Specific Case Studies, Immigration, Industry-Specific Case Studies, Women’s Rights

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Domestic Work

Labadie-Jackson, Glenda, “Reflections on Domestic Work and the Feminization of Migration,” *Campbell Law Review* v. 31 no1 (Fall 2008) p. 67-90

Abstract:

This article begins by describing the modern trend whereby women in countries that lack policies to help facilitate a work-life balance pass household responsibilities onto domestic workers. Domestic workers, in turn, pass their own domestic and reproductive labor onto close female relatives. The author notes that due to a seemingly universal view of domestic labor as feminine, men are largely missing from this “global care chain.” The article then summarizes how modern globalization has fueled a recent surge in immigration, particularly female labor migrants. In analyzing conditions of domestic work, the article depicts some common traits: low

pay, low hours, physical and psychological abuse, isolation, and job insecurity. Reasons for such poor labor conditions, according to the author, include: perceptions of domestic work as a “private matter,” casual employment conditions, and failure to regulate domestic labor on a domestic and international level. The article concludes by stressing the need to implement current international worker protections, as well as develop domestic protections that would cover domestic workers.

Subjects: Employment Law, Immigration, Industry-Specific Case Studies, Women’s Rights

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Industry-Specific Case Studies

Bomba, Margaret, “Exploring Legal Frameworks to Mitigate the Negative Effects of International Health Worker Migration,” *Boston University Law Review* v. 89 no3 (June, 2009) p. 1103-1135

Abstract:

This article focuses on the problem of health workers migrating en masse from the developing world to wealthy countries. In Part I, the author describes the problem and presents reasons why health workers are migrating at such an alarming rate. In Part II, the article details the debate about global health-worker migration between (1) those who wish to keep things as they are, (2) those who recognize a problem, yet advocate against control over health worker migration, and (3) those who recognize a problem and advocate for regulation of health-worker migration. Part III examines the evolving framework of immigration laws in the U.S. as they relate to doctors, in particular. The laws initially required foreign doctors to return home after training in the U.S., but now create possibilities for those doctors to remain in the U.S. Part IV then examines a number of national and international attempts at curbing Global North-to-South health-worker migration. Finally, Part V examines the efficacy of different solutions and concludes that codes of ethics for international recruitment of health workers, as well as bilateral and multilateral international agreements, are the most promising.

Subjects: Codes of Conduct, Immigration, Industry-Specific Case Studies

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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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[Katherine V.W. Stone](#)

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