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**New Book**

*Rethinking Workplace Regulation: Beyond the Standard Contract of Employment*

Editors: Katherine V.W. Stone and Harry Arthurs

(Russell Sage Foundation Press, 2013)

This volume, composed of chapters by leading scholars from ten countries representing eight disciplines, addresses the impact of globalization, technological change, new management HR strategies, and the financial crisis on the nature of employment relationships in advanced economies. It takes as it premise the fact that the employment relationship has undergone a profound transformation in the past 20 years. For most of the 20th century, employment was built around the standard employment contract, a social practice as well as a legal construct that assumed that workers would be employed with a single firm for an extended period of time, and that they would be provided with decent wages and benefits, and given reliable advancement opportunities within their employer’s internal labor market. That assumption has become untenable. Today many employers have found it to their advantage to outsource work and to reduce their core labor force by utilizing new recruits or temporary workers. They seek to lower labor costs by curtailing pay and benefits and breaking the link between pay and length of service. They are also expanding the use of “project work,” bringing in specialized skilled workers on an as-needed basis rather than developing skills in their own workforce. As a result, precarious employment is becoming common as workers move from the standard employment contract to temporary, part-time and agency work or to self-employment. These developments are documented in an appendix that brings together data from international and domestic sources.

The changes in the nature of employment have undermined many public policies and labor market practices that developed before and after the Second World War. In most industrial countries, collective bargaining arrangements, employment laws, workplace pensions, social security, health insurance and other social benefits assumed that workers will remain with a single employer for a protracted period. Job security has been typically protected through seniority and notice provisions and/or prohibitions against arbitrary or unjust dismissal, and workers have been insulated from the consequences of unemployment through a contributory insurance system. Finally, unions in most countries organize workers on a firm or sectoral basis, on the assumption that their members’ employment with the firm or within a sector is stable and on-going.

In response to the transformation in the nature of employment relations, many countries are experimenting with new regulatory responses to try to balance workers’ security with firms’ demand for flexibility. These experiments include “flexi-curity” strategies, new schemes of social protection, revised legal concepts of contract, innovative approaches to union organization and firm-based “total HR management”, and regional initiatives to stabilize local labor markets. This volume reports on some of these recent experiments, many of which are too new to have proven themselves. Moreover, they have been conducted in specific national contexts that may be difficult to replicate elsewhere. Nonetheless, an important finding of our project is that some new labor regulatory and labor market policies are developing and that it is important for national policy makers to inform themselves about how other countries are addressing quite similar problems. Hopefully, new ideas derived from cross-national comparisons will inspire
them to try things that are not part of mainstream thinking in their own country.

**Comparative Labor Law: Australia and the United States**


Abstract:
This article reports on an empirical study about the enforcement of Australia’s occupational health and safety (OHS) legislation against suppliers and designers of products used in workplaces. In the last 30 years, Australia has broadened its OHS legislation to cover suppliers and designers of substances and systems that affect the safety of workers. These suppliers and designers, referred to as ‘upstream duty holders,’ are subject to inspections and penalties for the workplace risks their products create. The authors examined compliance reports, workplace documents, and OHS statistics collected from 2003-2007 in four Australian states: Victoria, Queensland, Tasmania, and Western Australia. They also observed and interviewed OHS inspectors. The researchers found that the inspectors noted upstream duty violations less frequently than other types of violations. When they did find violations for upstream duty holders, they focused on supplier violations rather than design-related violations. Moreover, prosecution of design-related risks generally only occurred after major workplace accidents that resulted in injury or death. However, the authors note that even if OHS inspectors begin to systematically pursue upstream violations related to design, the international nature of many supply chains pose likely jurisdictional problems for their prosecution.

Subjects: Comparative Labor Law, Country-Specific Case Studies, Health and Safety

**Country-Specific Case Study: Australia**


Abstract:
In Australia, preferred hours clauses allow workers to elect to work, different or additional hours at their standard rate of pay. These clauses are controversial; many unions and politicians believe that the clauses undermine the Fair Work Act by relieving employers of the obligation to pay overtime. Employers counter that the Fair Work act acknowledges the need for flexibility so that business can run efficiently and individual workers can be accommodated. The author examines case law relating to preferred hours clauses and finds that employers often pressure workers into agreeing to them in order to save on labor costs. The author argues that this exploitation that is, on balance, more detrimental to the labor force as a whole than beneficial to the workers who request preferred hours arrangements. To preserve flexibility for workers who desire it, the author recommends that employers should be required to either show they have a
genuine need for a preferred hours agreement, or that the employee engaged in the agreement genuinely needs or benefits from the arrangement.

Subjects: Comparative Labor Law, Country-Specific Case Studies

Comparative Labor Law


Abstract:
The author argues that employment law in the United States is inherently trans-substantive, in that it requires students and practitioners to master contract, tort, and administrative law and the interplay between these legal disciplines. However, missing from most American discussions of employment law are legal concepts prevalent in other countries, particularly the view that worker protections are a part of human rights law. The author also shows that how nations such as the United Kingdom acknowledge the interplay between worker-firm relations and corporate law. The author argues that the ‘compartmentalization’ of employment and corporate law in the United States impedes public-private ordering and encourages an incomplete understanding of both legal regimes. He argues that the study of international and comparative employment law would provide future practitioners with the opportunity to bridge the unnecessary divides between employment law and other fields.

Subjects: Comparative Labor Law, Full-text links: || WWW ||

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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.


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 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.


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:


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/](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/](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](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](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.polsoz.fu-berlin.de/polwiss/db_unions](http://www.polsoz.fu-berlin.de/polwiss/db_unions)

The database, produced by the Center of Labor Relations of the Otto-Suhr-Institute of the Freie University Berlin, contains over 7,000 citations of books, articles, working papers, brochures, proceedings, etc. The bulk of the citations address aspects of labor relations in Germany and the EU, but there is a substantial body of literature in the database covering global labor issues as well.
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