

BULLETIN

INTERNATIONAL SOCIETY for LABOR and SOCIAL SECURITY LAW—U.S. BRANCH

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[**Visit our U.S. Branch new web site:** <http://law2.unl.edu/islssl/>]

Notes from the Chair

By Steve Willborn

I have just returned from the VII American Congress of the ISLLSS in Santo Domingo. The United States branch had two old hands in the organization present papers at the conference – Ted St. Antoine and Alvin Goldman – but we were also able to present the organization with two fresh new voices from the United States. Roberto Corrada from the University of Denver Sturm College of Law talked (in Spanish!) about new developments in labor law at the conference's concluding round table and Jay Youngdahl, a very impressive labor-side attorney from Friendswood, Texas, talked about protection against anti-union discrimination.

I first presented a paper at an ISLLSS conference more than twenty years ago in Buenos Aires, and I remember the conference well. Buenos Aires, of course, is a wonderful and memorable city in its own right. But I was basically adopted by a group of lawyers from eastern Argentina who took me to an authentic, very cheap, and very good Brazilian steakhouse and then out for a night on the town. I discovered that a night out on the town goes much, much later in Buenos Aires than it does in small-town Wisconsin. I also remember very well the conference itself, especially my first exposure to the interesting world of labor law in Latin America.

As an organization, we would love to be able to do both of these things more often, that is: a) to be able to present to the organization interesting new voices from the United States and b) to be able to expand the view of more and more of our members – including you – by exposing them to interesting lawyers and ideas from around the world.

You can help us to do this in two ways. First, please consider asking one or two of your colleagues to join the organization. Or, if

you're hesitant to do that, just send a couple of names to me and I'll invite them myself. Second, think about whether you would want to make a presentation at one of the Congresses. There are still slots available for the next event, the World Congress in Sydney, Australia, in September, 2009. Some of you have already let me know of your interest, but I would welcome more expressions of interest. (Of course, this invitation may require difficult decisions and result in some disappointment, but having too many great people interested is a relatively pleasant problem to have.)

On another topic, we considered making a formal bid to host the 2012 World Congress. The United States has not hosted an ISLLSS Congress since 1982, so it's about our turn. It would also be a great deal of work. We floated the idea with the international executive committee in Santo Domingo, and they are inclined to go in another direction for the 2012 Congress. Nevertheless, I think we should continue to think about hosting a Congress. I would be interested in hearing what you think about that possibility.

As always, if you have ideas about how to make this a better organization, please let me know.

In Memory of BENJAMIN AARON

Benjamin Aaron died on August 25th at the age of 91. From 1985-88 Ben was President of the International Society for Labor and Social Security Law. A founder of the Society's U.S. Branch, he served as our Branch Chair from 1967-82.

During World War II, Ben was a staff member and then executive director of the National War Labor Board. He later served on the labor advisory commission to the Supreme Commander, Allied Powers, in Tokyo, joined the UCLA Institute of Industrial Relations in 1946, and in 1960 became its director and a

member of the UCLA law school faculty where he taught until his retirement in 1986. Although retirement meant no scheduled classes, until his death due to an accidental fall, Prof. Aaron continued to go to his UCLA office to research and write, and to mentor younger faculty as well as students.

The high regard for Benjamin Aaron's scholarship and teaching went far beyond our national borders. Twice he was appointed to the faculty of the Salzburg Seminar in American Studies; and he was a resident fellow at the Center for Advanced Study in the Behavioral Sciences; a visiting fellow at Clare Hall, University of Cambridge; a Phi Beta Kappa visiting scholar; and a visiting fellow at the School of Law, Australian National University. Additionally, he was an invited lecturer at universities in places as diverse as Brazil, Japan, Belgium and South Africa.

National recognition of Ben Aaron as a leader in the fields of arbitration and mediation included his election as President of the National Academy of Arbitrators in 1962, his selection for the American Arbitration Association's Distinguished Service Award, appointment by five U.S. Presidents to a variety of national boards and advisory commissions, service on the UAW Public Review Board for over thirty years, almost a decade of membership on the ILO Committee of Experts on the Application of Conventions and Recommendations, and election as a charter emeritus member of the College of Labor and Employment Lawyers.

All who knew Ben, however, will explain that first and foremost he was a warm, amiable, decent person who valued the arts, and enjoyed lively companionship and good conversation.

At the time of his death, the Aaron family requested that in lieu of flowers, donations be made to the Benjamin Aaron Scholarship Fund, UCLA School of Law, Box 951476, Los Angeles, 90095.

His recollections will be published in December in a soft covered 534 page book, A LIFE IN LABOR LAW: THE MEMOIRS OF BENJAMIN AARON which can be purchased for \$15 from UCLA Inst. for Research on La-

bor and Employment, Box 951478, Los Angeles, CA 90095-1478.

New Law in China

A communication from the Littler Mendelson law firm referenced a recent report by Economic Policy Institute economist Robert E. Scott who estimates that the U.S. trade deficit with China since 2001 has displaced about 1.8 million jobs in the U.S. Scott cited AFL-CIO estimates that if China complied with internationally recognized labor rights, it would have to raise wages 47-85%.

These estimates suggest the potential significance of the recently approved Chinese Employment Contract Law which becomes effective at the beginning of 2008. Relying on a translation circulated by the Baker & McKenzie law firm, several aspects of the Employment Contract Law appear to be clear but others remain uncertain due to vagueness and inconsistencies. Additional national and provincial regulations are being promulgated to provide more detailed guidance to employers and workers. However, those familiar with Chinese law warn that the language of a Code often gives little guidance respecting how it will be enforced. On the other hand, a recent announcement explained that the union federation, with Communist Party approval, will seek higher wages under the collective agreements negotiated pursuant to the new law and Party mandates generally reshape conduct in that country.

One requirement of the new law is that employees must receive a written employment contract. Several provisions limit the contractual grounds for terminating an employee and provide mandatory severance pay (a month for each year of service) for those whose employment is severed for permitted reasons. It also imposes minimum notice requirements (30 days in most situations) on employees who wish to terminate their employment and limits certain types of contract terms including non competition restrictions. Issues as to the validity of an employment contract can be resolved by a "labor dispute arbitration institution" or a court.

Also, the new law contains criminal sanctions to protect employees from employer im-

posed insults, corporal punishment or detention, severe threats to worker health or safety, or compelled performance of work. In addition, workers have a stated right to refuse to do dangerous work and to criticize and report work that endangers health or safety. Less clear, is a provision that appears to prohibit mandatory overtime.

Article 51 of the new law provides for collective agreements to be negotiated either by a union or by representatives selected by the worker assembly. If the latter method is used, then negotiation on behalf of workers is under the guidance of “the labor union at the next higher level.” [Apparently a means of ensuring Party control of worker representation.] A union can negotiate an area-wide or industry-wide collective agreement and collective agreements establish minimum rates but may not establish rates lower than those adopted by the state. Violations of collective agreements may be submitted to a “labor dispute arbitration institution.” Before they become effective, however, collective agreements must be submitted to the Labor Administration Authority, but the latter has only 15 days to raise objections. The Code does not explain what is to happen if the Authority objects to certain provisions.

Another new law extends employment discrimination protection to those who carry infectious diseases such as hepatitis B and HIV. Although the Chinese anti-discrimination law protects most groups protected under U.S. law, apparently it does not prohibit age discrimination.

Up-coming Meetings

-Feb 15-16, 2008, Thomas Jefferson School of Law, **San Diego**, CA. Theme: *The Global Workplace: Expanding Intellectual Borders with International and Comparative Workplace Law*. Co-sponsored by the Seton Hall and Louisiana State University law schools. Panel presentations on: Int'l Workplace Issues: Human Rights, Trade and the Regulation of Labor Market; Comparative Law in Action- Country Perspectives; Teaching Beyond Our Borders; and Practicing Workplace Law in a Globalizing World. Prof. Roger

Blanpain is the keynote speaker and Prof. Matthew Finkin will be the keynote commentator. In addition to notable U.S. practitioners and academicians, several guests are European and Asian experts. For details and registration see: <http://www.tjssl.edu/GlobalWorkplace>

-Mar. 26-28, 2008, Cape Town, South Africa, 5th African Regional Congress of IIRA. Theme: *Realizing Decent Work in Africa*. Details should soon be available at: <http://www.ilo.org/public/english/iira/congresses/>

-Apr. 14-17, 2008, Beijing, China. The International Labor Law Committee of the ABA's Section of Labor and Employment Law will conduct its Spring Meeting at the Grand Hyatt Beijing. Theme: *China & Greater Asia-New Dimensions in Employment Law*. The focus will be on practical implications for U.S. and EU multinational companies, and the role of unions and employee-advocates in addressing labor and employment and related political issues in Asia. Also, there will be an update on significant European labor and employment law developments. Further information should soon be available at: <http://www.abanet.org/dch/committee.cfm?com=LL108000>

-Sep. 16-18, 2008, IXth European Regional Congress of the International Society Labor and Social Security Law, Freiburg, Germany. (English is one of the official languages at this meeting and American members of the International Society are welcome to attend.) Topics include: “Implementation of Equal Treatment Principles”, “Status and Protection of Immigrant Workers”, “The Impact of Demographic Trends on Pension Schemes”. Also, roundtables on “The Impact of Information and Communication on Labor Law” and “Employer Responsibilities in Enterprises with Complex Structures”, as well as workshops on “Systems of Law Enforcement in Labor Law” and “Qualification and Training of Lawyers and Law Advisors in Labor Law”.

Further information can be found at: www.labourlawfreiburg2008.com

-Sep. 25-27, 2008, Buenos Aires, Argentina, Int'l Indus. Rel. Ass'n Regional Congress of the Americas. Details should soon become available at: www.artra.com.ar

-Sep. 1-4, 2009, the XIXth World Congress of the **International Society for Labour and Social Security Law** will be held in **Sydney, Australia**. The three themes for the 2009 World Congress are: 1) Regulatory Frameworks and Law Enforcement in New Forms of Employment, 2) Workplace Level Workers' Representation and Social Dialogue, 3) Emerging Patterns of Social Protection in Light of Structural Changes (aging, changing family structures, immigration, etc.).

There will also be a round table discussion on "Work and Family Life", and a workshop titled "What's New in Labour Law?"

The organizing committee, chaired by Professor Ron McCallum, has been engaged in an especially energetic effort to promote the congress both at home and abroad.

Details are available at:
<http://www.labourlawsydney.com>

-Aug. 24-28, 2009, preceding the International Society's **Sydney** meeting will be the 15th World Congress of the International Industrial Relations Association which will also be held in **Sydney, Australia**. Themes include: Management, Work and Organization; Voice and Representation at Work; Institutions, Processes and Outcomes; Work, Family and Community; and New Forms of Work and Employment.

Further information can be found at:
www.iceaustralia.com/IIRA2009

The Marco Biagi Foundation, the University of Modena and Reggio Emilia (Italy), and ADAPT, the association for international and comparative studies in labor law and industrial relations, announce a Doctoral Research Program with no limits in terms of age or nationality. Fifty per cent of the places on the program will be awarded to international students or to applicants who have taken their degree in uni-

versities other than the University of Modena and Reggio Emilia.

The teaching program includes seminars in Italian and English. Further information can be found under the heading "Ammissione e offerta formativa/Scuola di dottorato" at the website: www.fmb.unimore.it

Japan Institute for Labor Policy and Training (JILPT)- Foreign Researcher Invitation Program

This annual program invites foreign researchers to Japan and provides them with opportunities for conducting research in Japanese or English on labor policy and labor issues in Japan for the purpose of producing a completed research report. Opportunities are available for long-term invitations of 1-12 months or short-term invitations of less than 1 month. Applicants must be affiliated with a labor research institute or university. The program stipend covers travel, living and other expenses.

For further information, contact: International Affairs Department, The Japan Institute for Labour Policy and Training, 4-8-23 Kamishakujii, Nerima-ku, Tokyo 177-8502, Japan

Email: inviting@jil.go.jp

YOUR 2007 DUES STATEMENT is ENCLOSED (if you have not already paid this year)

Remember, membership includes an annual subscription to *Comparative Labor Law and Policy Journal*.