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Note from the Chair, Steve Willborn

I have become intrigued by a disjunction between two major narratives about the role and fate of law in the face of globalization. On the one hand, a major narrative is that law is crucial to competitiveness in the new global economy. Unless nations have sound legal systems, including strong judiciaries, protection of property rights, etc., they will not be able to compete well in the global economy because they will not be able to create the confidence necessary to attract capital, encourage entrepreneurial activity, and so forth. Cass Sunstein and other important scholars have become leading spokespersons for this view. On the other hand, another narrative, perhaps more familiar to labor lawyers, is that globalization will lead to a race to the bottom which will eviscerate legal protections, including especially labor law.

These narratives are inconsistent. The first says that globalization demands law, will function well only with it, and that unless countries have good law they will not fare well in the global economy. It says that globalization will create competition among states to enact law and shore up their legal systems, or they are in big trouble. The second says almost the opposite: globalization will demand and require de-regulation of the global economy, which will result in the demise of many legal protections. Either countries get rid of many of their current laws, or they will be in big trouble.

These two almost wholly separate narratives intrigue me. I am developing an argument that attempts to bring the two together. One interesting possibility here is that the first narrative may significantly limit the damage predicted by the second one. More specifically, there may be large categories of law, including some aspects of labor law, which will grow and thrive in the global environment for the reasons articulated by the first narrative. The questions are what laws fall into the growth vs. the demise categories, how large are the two categories, and can we predict and channel the change. (continued on page 2)

Memoirs of Roger Blanpain **“What Can I Do for You?”**

Many U.S. Branch members know, or know of, former International Society President **Roger Blanpain** whose efforts to expand interest in comparative and international labor and employment law are legendary. Roger, a most amiable companion and colleague, has led a dazzling life of political as well as academic activism. He recently published an English version of his memoirs in which he describes his frequent efforts to blow the whistle on injustices and initiate reforms to resolve social problems. These campaigns have ranged from challenging the exploitation of young soccer players, to ensuring better working conditions for child care workers, to combating the hazards of secondary tobacco smoke, as well as his scholarly and organizational work to ensure that European and Belgian national law better reflect principles of social responsibility. Those interested in reading about Roger Blanpain's fascinating life can order his book at:

<http://publishers.vandenbroele.be> (It is also available from Amazon without having to pay the wire transfer fee required when ordering from the publisher.)

Changes in Australian System for Resolving Bargaining Deadlocks

Until the 1990s, resolution of bargaining deadlocks in Australia was characterized both by the dominance of state law regulation of labor-management relations as well as by dependence upon administrative tribunal systems that engaged in mandatory conciliation with final resort to administrative adjudication that was called arbitration. The tribunal structures and procedures for the latter varied among the states and federal government. For about the past 15 years that system has undergone substantial revision with the result that as of the beginning of this year federal law regulates all private sector and much of public sector labor-management relations. In addition,

recourse to adjudicated resolution of bargaining deadlocks no longer is mandatory.

Note from the Chair (continued)

I mention these thoughts for a couple of reasons. As we all know, there are large, hugely important issues facing labor law. Our systems of national labor regulation are struggling to keep pace with the modern world and are under increasingly intense economic pressure. At the same time, we have just been through several cataclysms--financial, environmental, etc.--that have demonstrated the need for and high value of effective regulation. It is a time for reflection on the role and purpose of government regulation and the mechanisms of effective regulation. These conditions mean that it is a propitious time to think again about the fundamental questions.

Why do I say this here? We have been through this before. At the beginning of the industrial age, we went through a decades-long period of struggle and discussion to fashion a system of industrial governance and regulation. And an important part of that discussion was an international exchange of ideas about labor regulation and the real-world experiments that were being conducted in Europe and the United States. (An insightful discussion of this international exchange can be found in Daniel Rodgers' book, *ATLANTIC CROSSINGS*.)

This, of course, brings me to our organization. The International Society can play an important role in informing us about the proper course as we rethink our systems of labor regulation. I hope and expect that international cross-fertilization will play just as important a role in the next few decades as it did a century ago. And, if that's the case, the International Society is well-positioned to facilitate the kinds of discussions that can make that happen. But the conversation can be even better if we can bring more voices to the table. So I hope that you will join me in encouraging our colleagues in the academy, the judiciary, and in practice to join us in these important endeavors.

Conferences

-May 25-28, 2010, **Cartagena de Indias, Colombia**. VIII Americas Regional Congress of ISLSSL.

Theme 1: Current situation and the future of public and private pension systems in the light of the worldwide crisis. General Reporter: **Carmelo**

Mesa-Lago, United States. Theme 2: Public and private systems of settlement of individual and collective labor disputes. Co-reporters: G. Valdés S. (Colombia) and **Steven Willborn**, United States. Theme 3: The protection of worker's privacy at the workplace. Co-reporters: Cristina Mangarelli (Uruguay) and Gilles Trudeau (Canada).

Round Table 1: News forms of employment and their impact on:

a) individual employments relations; b) collective labor relations; and, c) the social protection of workers concerned. Round Table 2: The use of international law by national courts in the adjudication of labor disputes. Moderator: Xavier Beaudonnet (ILO).

Keynote Speech: Strike in the Public Service. Carlos Álvarez Pereira (Colombia)

Registration fee US\$220, special reduced rates for students. For inquiries:

www.colegio-abogados.org.co;

E-mail: colabog@etb.net.co

-June 28-July 1, 2010. **Copenhagen**, Denmark. European Congress of the International Industrial Relations Association (IIRA) to be held at the University of Copenhagen.

Theme: European Employment Relations- Crises and Visions; Track 1: The diverse labor force--new and old challenges; Track 2: Workplace relations and HR-- back to collectivism?; Track 3: Employment policies-- labor demand, demography and social partners; Track 4: Regulating employment in Europe-- processes, actors and governance.

More information and on-line registration is available at: <http://www.iiraeurope2010.com/>

-September 7-9, 2010, **Brighton**, England. Conference sponsored by the British Sociological Association and the Work, Employment and Society Editorial Board. Theme: Managing Uncertainty: A new deal? International challenges and the changing face of ~~work~~work. Full details about the conference, see: www.britsoc.co.uk/events/wes.htm

-September 8-10, 2010, **Oslo**, Norway, "Industrial Relations in Europe." Conference topics: Labor Market Crisis and Unemployment--National and European Policy Responses; Wage Policies and Collective Bargaining--Implications of The Economic Slump; Trade Unions and The Crisis--Death Knell or Revival?; Cross-Border Mobility

of Labor And Undertakings—Implications for Industrial Relations; Corporate Governance, Participation and Restructuring—A Turning Point?; Equality and Diversity In a Turbulent Time. Fee: Euro 250 (before July 1); EURO 300 (after 1 July 2010)

To register: www.fafno.no/irec/registration.html

-October 29-31st, 2010, **Halifax**, Canada. Symposium on Challenges of Work and Workers in the Knowledge Economy. Sponsored by The Interuniversity Research Centre on Globalization and Work. Keynote speaker **Katherine V.W. Stone**, Professor, University of California at Los Angeles Law School. The symposium will explore the question “What are the challenges for all stakeholders in the emerging world of knowledge work?” and is expected to attract international academics, policy makers, unions, associations of professionals and artists, employers, and workers in the global labor market.

Information available at: www.crimt.org

-April 5-7, 2011, **Leeds**, England. The International Labour Process conference. For the call for papers, see www.ilpc.org.uk/Portals/56/ilpc2011-docs/ilpc2011-callforpapers.pdf.

-September 21-23, 2011, **Seville**, Spain. Xth European Regional Congress, ISLSSL. Agenda: Theme 1: Labor Law and Industrial Relations in the Light of the Economic and Social Changes; Theme 2: Collective Bargaining Rights in a Globalized Economy; Theme 3: Social Protection of the Unemployed; Round Table 1: Public and private employment services as intermediaries in the hiring of workers; Round Table 2: Groups of workers who risk exclusion or unprotection under labor law; Workshop 1: The role of the judiciary vis a vis the changes in labor law; Workshop 2: Interruptions and suspensions of the employment relationship.

-Week of September 24, 2012, **Santiago de Chile**, XX World Congress of ISLSSL. Details relating to the Congress location, agenda, registration fees, reporters and social activities currently being developed.

Globalization & Labor Standards Library

Under the directorship of Prof. **Kathrine Stone**, UCLA’s School of Law and its Institute of Industrial Relations sponsor the Globalization and

Labor Standards (GALS) Bibliographic Library. The Library abstracts English language books and law journal articles exploring international labor rights and standards. Current subject headings for the abstracted materials include *Codes of Conduct*, *Child Labor*, *NAFTA*, *WTO*, *Alien Tort Claims Act*, *ILO*, *European Union*, *Forced Labor*, *Trade Conditionality*, and *Women's Rights*. Research is further facilitated by the Library’s links to the Westlaw and Lexis sites containing the full articles. Its Newsletter also provides links to web sites of institutes, programs and other on-line resources that are useful for those engaged in comparative and international labor and employment law research.

Subscribe to the Library’s newsletter by emailing ‘gals-request@lists.ucla.edu’ leaving the “Subject” blank and type the single word SUBSCRIBE in the message.

Several months ago, Stuart Basefsky, Director of the Institute for Workplace Studies News Bureau, at Cornell’s ILR School, called attention to the availability of a pdf download titled “Overview Of Industrial Relations In The EU And Other Global Economies 2008–2009”. If interested, check at:

<http://www.eurofound.europa.eu/publications/htmlfiles/ef0990.htm>

A new EU Directive on European works councils became effective on June 5th, 2009. Thanks to Stuart Basefsky’s alerts, we can report that a web site is available with a broad range of information and guidance respecting the new EU works council requirements and developments at:

<http://www.euro-works council.net/en/111.php>

Affect of German Severance Pay Law

In 2004 the German government set the amount of severance payments in economic dismissal situations. A recent paper [Elke Jahn, ‘Do firms obey the law when they fire workers? Social criteria and severance payments in Germany?’, 30 Intl J. of Manpower 672 (2009)] examines the affect of the legislation. Although some expected the law to increase work force flexibility by making it easier to predict the cost of downsizing, a summary of the paper states that those workers who are protected by the law have the lowest probability of being dismissed. In addition, the study found that as the expected severance pay-

ment and firm size increase, the probability of receiving compensation increases.

Cambodian Mediators and Arbitrators Attend NAA Meeting

Several arbitrators and officials from the Cambodian Arbitration Council will attend the annual conference of the National Academy of Arbitrators in Philadelphia, May 26-29.

The Cambodia Council was established in 2002 by the ILO and is funded by the World Bank. It handles disputes unresolved by the Ministry of Labor conciliators. Parties each select an arbitrator from a worker and employer panel and the two selected arbitrators choose an arbitrator from a panel of neutrals. The three arbitrators then seek to mediate the dispute, hold hearings and issue decisions, which if not agreed to as final and binding, may then be appealed to the courts.

Academy members have contributed books to the Timothy Heinz Memorial Library at the Council and a group of Boston arbitrators and advocates organized by our Board member **Arnold Zack**, who has been involved in the project since its inception, with the aid of the FMCS and AAA, have provided inspiration, training and guidance to the Council.

Arnie describes the guests as part of Cambodia's new generation of leaders who are eager to learn about our system.

'Free Agent' Soccer Players and EU Law

Article 45 of the European Union Treaty guarantees European residents freedom of movement. In a recent decision the European Court of Justice held that freedom of movement was violated when a French soccer team, Olympique Lyonnais SASP, based on its recruitment and training contract with Olivier Bernard, tried to collect over €53,000 (over \$68,000) from him because for his first year as a professional player he went to a British team, Newcastle United FC. The amount sought by the French team was based on what it had offered to pay Bernard for his first year of professional play. The Court of Justice ruled that although the Treaty guaranty did not prevent the French team from recouping its training costs, it could not collect the amount sought because the damages were unrelated to the team's actual costs.

Member Activities

Kathrine Stone's forthcoming book, GLOBALIZATION AND FLEXIBILIZATION: THE REMAKING OF THE EMPLOYMENT RELATIONSHIP IN THE 21ST CENTURY, will examine the changing employment landscape in Japan, Australia, and Europe.

The 12 edition of **Roger Blanpain's** 960 page treatise EUROPEAN LABOUR LAW was recently published by Kluwer Law Int'l. (The ISBN number is: 9789041132550).

Lance Compa is writing a report for Human Rights Watch on violations of workers' rights in the United States by European-based multinational companies. The report examines conduct by well-known European companies that proclaim adherence to ILO core labor standards, OECD guidelines, the UN Global Compact and other international instruments on workers' freedom of association, but adopt American management-style "unionbusting" when workers try to organize and bargain collectively in their U.S. operations. The report is due for publication in summer 2010.

Ronald Brown helped organize a two day conference with the Peking University Law School on December 11-12, 2009 at which he presented a paper on *US and Chinese Social Security Draft Law*. The conference was attended by 50 participants from the National People's Congress' Law Committee, the State Council's Legislative Affairs Office, the Ministry of Labor and Social Security, the Academy of Social Sciences, the All China Federation of Trade Unions, lawyers, and academic experts from the leading law schools in China. The papers and proceedings will be published by the Peking University Press and Ron will conduct a follow-up conference in 2010. Additionally, he published an article, "Best of Times or Worst of Times: Life Under China's New Labor and Employment Laws", in *Fashion Technology Magazine* (written for the overseas manufacturing industry).

Argentine Labor and Employment (Courses for Spanish Speakers)

Spanish speaking members may be interested in the numerous courses offered by the Sociedad Argentina de Derecho Laboral (Argentine Labor Law Society). These programs and related publications can be found at its web site:

página www.laboral.org.ar
