

BULLETIN

of the

U.S. BRANCH

INTERNATIONAL SOCIETY for LABOR and SOCIAL SECURITY LAW

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November 2012

[U.S. Branch's web site: law.unl.edu/islssl]

Notes from the Chair - Steve Befort

This is my first column as the new Chair of the U.S. Branch of the ISLSSL. I have some big shoes to fill in following in **Steve Wilborn's** footsteps. Fortunately for us, Steve will remain on the Executive Board as Secretary-Treasurer replacing **Alvin Goldman** who, in turn, will remain on the Board as a Director. Special thanks to Steve and Alvin for their long and productive contributions in these leadership posts.

In thinking about the current state of the ISLSSL, I see an organization that provides considerable value to its membership. These benefits include the opportunity to participate in international conferences, such as the September 2012 World Congress in Chile, and national conferences such as the July 2012 program in Philadelphia. And, of course, we cannot forget the outstanding *Comparative Labor Law & Policy Journal* edited by **Matt Finkin** and **Sandy Jacoby**.

But, I would like to continue Steve Wilborn's efforts to make the American branch an even more vibrant organization. Please consider attending, or better yet, making a presentation at an upcoming conference. Consider writing an article for the journal, or proposing a new stand alone or collaborative conference. Most importantly, give me any ideas you may have on how to enhance the value provided by this organization.

Report- The World Congress in Santiago, Chile

By Steve Willborn

The XXth World Congress of the International Society for Labor and Social Security Law was held in Santiago, Chile, from September 25-28, of this year. I attended and represented the United States Branch at the Executive Committee meeting held on the first day of the conference.

There were two sets of important administrative news from the Executive Committee meeting. First, the international association had a leadership transition. There was the normal and required transition at a World Congress from one President to another. **Adrian Goldin**, a very impressive lawyer from Argentina, replaced **Michal Sewerynski** from Poland. Maybe more significantly, the long-time Secretary General of the Association, **Arturo Bronstein**, retired and was replaced by **Giuseppe Casale** from Italy. The Secretary General is the Executive Director of the organization, the main person who sets the agenda and keeps track of everything. Mr. Casale, who is Director of the ILO's Department of Labour Administration and serves as the ILO affiliate's delegate to the International Society, is well-known and highly regarded within our organization and is a friend of long standing of several of our U.S. Branch members.

The other set of important administrative news from the Executive Committee meeting was the approval of a report which recommended significant changes in the organization. The report is lengthy, but the changes include reducing the number of working languages from four to three (English, Spanish, French), permitting experimentation with more traditional approaches to presenting research, establishing and maintaining a decent website, and establishing prizes for outstanding scholarship. As you may know, this organization has been a bit old-fashioned (or even hidebound). Approval of this report and the introduction of new leadership may create positive change for the organization.

I found the conference itself to be well-organized and interesting. If you haven't been to Santiago in recent years, I would recommend a visit. We stayed in an area of the city known as El Golf which was modern, upscale and safe. The conference hotel was a W, which made us all feel hip and young. The conference was well-attended—

there were approximately 750 people in attendance from more than 40 countries (although the vast majority of the attendees came from Latin America).

As is always the case, the academic presentations were somewhat mixed. But on the upside, I found some of the presentations as interesting as any I've observed over the past few decades. For example, there was a session on sexual harassment and "mobbing" (which we would probably call bullying).

The sexual harassment survey covered 27 different countries and it was absolutely amazing how similar the sexual harassment law was in those countries. In broad terms, my observation on the survey was that it was quite consistent with the convergence thesis which claims that increased communication and globalization will lead to a convergence of legal regulation (this was evidence of amazing convergence in this tiny area of regulation), but that the survey results were inconsistent with the race-to-the-bottom thesis (this was costly regulation that was present everywhere with absolutely no evidence of decline because of global competition).

The "mobbing" presentation was interesting, too, but for quite different reasons. Here there was no convergence; the regulation ranged from serious attention to no regulation, with most countries still clustering on the no-regulation side. And where there was regulation, there were large differences in how this type of restriction is defined and regulated. Again, however, I found this presentation and some others to be quite interesting and well-done.

I expect that most of our membership has never been to one of our organization's international meetings. I would urge you to consider attending one of them. If you ever want to talk about how to attend or to get involved with our organization in any way, please do not hesitate to contact me.

New US Branch Board

Most members have been notified by email respecting the results of our recent Board and Executive Committee elections. To recap, our officers are: **Stephen Befort**, Chair; **George Nicolau**, Vice Chair; **Steven Willborn**, Secretary-Treasurer; **Matthew Finkin** and **Sanford Jacoby**, Journal co-editors. Other Board members are:

Janice Bellace, Andrea Christensen, Lance Compa, Charles Craver, Kenneth Dauschmidt, Alvin Goldman, William Keller, Thomas Kohler, Susan Mackenzie, Martin Malin, Robert Moberly, Stephen Moldof, Dennis Nolan, Paul Secunda, Calvin Sharpe, Katherine Stone, Rebecca White, Jay Youngdahl, and Arnold Zack.

Upcoming Conferences

-March 18-19, 2013, **Modena, Italy**, Eleventh Annual International Conference in Commemoration of Marco Biagi. Theme: The Transnational Dimension of Labour Relations: A New Order in the Making? Information for submitting papers and for registration will soon be available in English at:

<http://www.fmb.unimore.it/on-line/en/Home.html>

-April 9-12, 2013, **Melbourne, Australia**, 8th Asian Regional Congress of the International Labour and Employment Relations Association. Organizing theme: "Work and Employment in the Asian Century." Early bird registration rate (c. US \$1,020) available until December 14, 2012 (after that date it will be c. US \$1,300). Conference web site: ilera2013@arinex.com.au
Registration site:
<http://ilera2013.com/registration.php>

-April 21-29, 2013, **Isla de Margarita, Venezuela**. The International Society is jointly sponsoring with the Fundación Universitas a post-graduate seminar on International and Comparative Law of Work. It is designed for lawyers and other professionals in the field of labor and employment who are Spanish speakers. Seminar sessions will be held at the Universidad de Margarita and accommodations and meals at the Hotel Lagunamar. Further information about fees and registration are available at:
http://www.universitatisfundacion.com/v2.0/eventos_detalle.php?codigo=MTcw or by email at:
universitas.edu@gmail.com

-May 31-June 1, 2013, **Los Angeles, California**. An international multi-disciplinary conference on "How Global Migration Changes the Workforce

Diversity Equation” will be conducted under the sponsorship of the UCLA Institute for Research on Labor and Employment in partnership with ADAPT (the consortium of groups interested in new approaches to comparative and international labor studies based at the Centre for International and Comparative Studies at the University of Modena and Reggio Emilia). Abstracts for proposed papers should be submitted by January 15, 2013 to :

<http://moodle.adaptland.it/course/view.php?id=22>.
Inquiries can be sent to: info@adapt.it

-June 20-22, 2013, **Amsterdam, The Netherlands**, 10th European Conference of the International Labour and Employment Relations Association (ILERA). Organizing theme: “Imagining New Employment Relations and New Solidarities.” Conference web site: www.ilera-europe2013.eu

-Sep. 3-5, 2013, **Warwick, England**. The British Sociological Association and the Work, Employment and Society Editorial Board will convene a conference at the University of Warwick to examine the state of work and interpretations of work, employment, society and the state. A post-graduate workshop will precede the conference on September 2d, 2013.

The conference has an international focus and although it is sociologically oriented, contributions from related fields are welcome.

Further information is available by contacting: enquiries@wbs.ac.uk

-**Guayaquil, Ecuador** has been selected as the site for the next the Western Hemisphere Congress of the ISLSSL. It is to be held in September 2013. An Asian regional congress of the Society is tentatively planned in Korea for 2013, a European Regional Congress will be held in Dublin, Ireland, in 2014, and the next World Congress is scheduled for Capetown, South Africa, in 2015. Details respecting these scheduled programs are not yet available.

The June 2012 issue of Journal of the Association of Corporate Counsel (Docket) published an article titled “Working Outside of the United States: The Nuts and Bolts of Employment

Agreements for Foreign Employees.” The paper details the complexities that must be weighed in formalizing employment arrangements in foreign operations.

The Baker and McKensie law firm has issued a pdf compilation of previously published articles offering guidance to employers operating outside the U.S. Titled “The Global Employer: A Primer On International Labor and Employment Issues (2012),” the compendium covers topics ranging from “Drafting and Implementing Global Workplace Policies” and “Global Employee Terminations in the Age of Social Media” to “Mobile Employees: Tax, Social Security and Immigration Compliance Issues” and “How to Avoid HR Nightmares in International M&A Deals”.

Relevant Member Activities

-Prof. **Charles Craver** recently taught dispute resolution skills to several Lex Mundi international law groups in Monterey, Calif.

-In January Prof. **Paul Secunda** was Hicks Morley Visiting Professor in International Labour Law at the University of Western Ontario Faculty of Law where he taught Contemporary Issues with the Wagner Model of Labour Law.

In April he was Visiting Professor of Law, Part-Time, in the LLM Comparative Law Program (Course: Comparative Labour Law: The Wagner Model) and Visiting Scholar at Osgoode Hall Law School in Toronto where his research examined the Ontario Occupational Pension System.

This past year Paul published *Réflexions sur les Problemes de Souveraineté et de Jurisdiction dans le Droit Mondial des Prestations Sociales: “Le Plus Long Voyage Commence Par Un Premier Pas”* (trans: Thoughts on Sovereignty and Jurisdictional Questions in Global Employee Benefits Law: 'The Longest Journey, With a First Step'), in *Revue de Droit Compare du Travail et de la Securitie Sociale* 57 (France) and *Le droit des Etats-Unis et la crise*, en *LES REACTIONS DU DROIT DU TRAVAIL, A LA CRISE, Le Droit Ouvrier* 147 (Feb. 2012), available at

http://www.cgt.fr/IMG/pdf/2012_fev_couv_int.pdf

In addition, Prof. Secunda's forthcoming publications include: *Explaining the Lack of Non-Public Actors in the U.S. Public Social Insurance System* in *International Standard-Setting and Innovation in Social Security* (Pennings & Becker Eds.) (Kluwer International); *Commission-Based Reform of Occupational Pension Laws: What Can the United States and Other Countries Learn from the Ontario Expert Commission on Pensions?*, which will be in volume 19 of the *Journal of Social Security Law* (U.K.); and *Lessons from the Ontario Expert Commission on Pensions for U.S. Policymakers*, which will be in volume 28 of the ABA's *Journal of Labor & Employment Law*;

Not to be accused of slacking, in March Paul was a presenter on the topic *The Sustainability of the Wagner Model in the United States*, during a program on *Convergence and Divergences: A Comparative Conference on Canadian and American Labor Law* which was held at the University of Western Ontario, London, ON. In April he was featured speaker for a program on *The Wisconsin Public-Sector Labor Dispute of 2011* at the Centre for Labour Management Relations, Ryerson University, Toronto, ON and in May, as part of a program on *The Role of Non-Public Actors in Social Security* at the University of Gothenburg, Sweden, Paul was a roundtable participant on the topic *Explaining the Lack of Non-Public Actors in the U.S. Public Social Insurance System*.

-In March Professors **Susan Bisom-Rapp** and **Michael Zimmer** presented a paper, *North American Border Wars: The Role of Canadian and American Scholarship in U.S. Labor Law Reform Debates* at the Tenth Annual Comparative Labour Law Conference in Commemoration

of Marco Biagi held at the University of Modena in Modena, Italy.

-**Kati Griffith**, published *Undocumented Workers: Crossing the Borders of Immigration and Workplace Law*, 21 *Cornell J.L. & Pub. Pol.* 611 and co-authored *Immigration Advocacy as Labor Advocacy*, 33 *Berkeley J. Empl. & Lab. L.* 73.

According to the ILO, globally youth employment (age 16-24) has reached a crisis: young people are three times more likely to be unemployed than adults and over 75 million youth worldwide are looking for work. Among the world's largest economies, unemployment for this labor sector is 8-11 % in Australia, Germany, Japan, South Korea, and Mexico; 15-18% in Argentina, Brazil, Canada, Russia, Turkey, and the U.S.; 21-23% in France, Indonesia, and the United Kingdom; and 35-52% in Italy, South Africa, and Spain. Nevertheless, in the past four years the youth unemployment rate has declined in Brazil, Germany, Indonesia and Turkey.

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