

BULLETIN

of the

U.S. BRANCH

INTERNATIONAL SOCIETY for LABOR and SOCIAL SECURITY LAW

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[U.S. Branch's web site: <http://law2.unl.edu/islssl/>; Int'l Socy. web site: <http://islssl.org/>]

Notes from the Chair

by Steve Befort

I attended the ISLSSL's XI European Regional Congress last month in Dublin, Ireland. It was a great program in a vibrant city. The four principal themes of the Congress focused on issues of collective bargaining, employment discrimination remedies, social security, and alternative dispute resolution. U.S. presenters included **Janice Bellace**, **Alex Colvin**, **Matt Finkin**, and **Steve Willborn**. Steve and I also attended the ISLSSL Executive Committee meeting where Tiziano Treu, Professor Emeritus of Labor Law, Catholic University of Milan, who has contributed several articles to our Comparative Labor Law and Policy Journal, became the Society's President-elect. His three-year term of office will commence at the 2015 World Congress.

While the conference provided a rich array of comparative perspectives, three presentations particularly resonated with me. First, during the opening session, two speakers offered very different descriptions of proposed legislation in Ireland that would simplify the forum and procedure options for contesting termination decisions. In a dialogue reminiscent of the recent public sector labor law debates in the U.S., one speaker praised the legislation as an efficient cost-saving measure, while another speaker criticized the legislation as a thinly veiled attack on fundamental employee rights. Second, Professor Keith Ewing of King's College London provided a very interesting big picture description of how austerity, politics, and court decisions are moving European labor law away from agreements with sectoral coverage and toward a more American enterprise-based model. Finally, the Alternative Dispute Resolution presentation underscored the greater role for mediation and

arbitration as mechanisms for litigation avoidance in the United States as compared to many European countries that utilize more streamlined statutory dispute resolution procedures.

Cape Town, South Africa will be the site of next World Congress in September 2015. While it may not have as many pubs as Dublin, the South Africa conference will offer a global perspective, presentations in English, and spectacular scenery. Please start thinking about participating and taking advantage of this and other future opportunities.

ISLSSL's 21ST WORLD CONGRESS to be in CAPE TOWN, SOUTH AFRICA, Sep. 15-18, 2015

The local organizing committee explains that the 21st World Congress is designed to provide a platform for a stimulating discussion on labor and social security law in a global environment where sustained economic and social uncertainty appears to have become the norm. **A discounted registration rate is available through the end of 2014.**

Questions to be examined include: How do we continue to give effect to the basic objectives of labor and social security law under current uncertain conditions? How best can the societal objectives of labor and employment law be secured?

The outstanding keynote speakers will include Professor Alain Supiot, Collège de France, Paris; Professor Graciela Bensusan, Autonomous Metropolitan University and The Latin American Faculty of Social Sciences (FLACSO), Campus Mexico; Professor Judy Fudge, Kent Law School, University of Kent; Professor Kamala Sankaran, Faculty of Law, University of Delhi and Professor Simon De-

akin, Faculty of Law, University of Cambridge.

Due to its exceptional natural environment, Cape Town is one of the top tourist destinations in the world. It is also the gastronomic capital of South Africa, and the city and its historic environs have for many years produced truly great wines. Visits to Cape Point, Table Mountain (one of the Seven Natural Wonders of the World), Robben Island (a World Heritage Site) and other unique attractions are unforgettable experiences.

For more information visit the Congress website at:

<http://labourlawcongress2015.co.za/>

Member Activities

Leiden Law School in The Netherlands chose ILR Senior Lecturer **Lance Compa** to hold the inaugural Paul van der Heijden Chair in Social Justice during the Fall 2014 semester. Leiden Law School Dean Rick Lawson said: "We were looking for a specialist with a solid international reputation to hold the new chair, and we are delighted to have found Professor Compa."

In selecting Lance, it was noted that he has conducted workers' rights investigations and reports on Cambodia, Chile, China, Haiti, Guatemala, Mexico, Sri Lanka and other developing countries and is co-author, with colleagues in the Labor Law Group, of INTERNATIONAL LABOR LAW: CASES AND MATERIALS ON WORKERS' RIGHTS IN THE GLOBAL ECONOMY.

Leiden students are drawn from across The Netherlands, Europe and the rest of the world. Located in the Dutch city of Leiden it has been a center of international law studies since the 17th century. It was the home of Hugo Grotius, the founder of the study of modern international law.

Barbara Fick participated in the Global Business Law Review Symposium The symposium on Friday April 25 at Cleveland Marshall College of Law entitled: A Look at International Human Rights and Labor Law's Influence on Multinationals' Corporate Responsibilities. Her presentation topic was

"Corporate Social Responsibility for Enforcement of Labor Rights: Are There More Effective Alternatives." The paper will be published in a forthcoming volume of the Global Business Law Review.

Jay Youngdahl, as many of you know, is Senior Fellow at the Initiative for Responsible Investment of the Hauser Center for Nonprofit Organizations at Harvard University. As part of his work with labor trustees, employee benefit funds, and their investment practices, in late September he participated in the UN-PRI Academic Conference in Montreal, where he presented a co-authored paper "How might Responsible Investors Address the Topic of Income and Wealth Inequality?" In addition, at the conference he was a panelist addressing the issues "Policies for Long Term Investing With An Eye On The Carbon Challenge" as well as "Tools To Address Investment Costs."

At an East West Center conference on Rebalancing China's Emergent Capitalism, in Honolulu in April, the ever busy **Ron Brown** presented a paper on "Labor Law Developments And Workers' New Voices: Rebalancing China's Emergent Capitalism?" Ron was named a Senior Fellow at the Melbourne University Law School's Masters Law Program where in the Spring/Summer semester he taught a course on *East Asian International and Comparative Labor and Employment Law* and also gave a public presentation titled "Collective Bargaining in China: Really?"

Ron's survey of *Labor Law and Industrial Relations in the U.S.* was published by Eurofound for a world-wide internet distribution as part of a global collection of national labor laws and his recent article "Defusion Of Labor Disputes In China: Collective Negotiations, Mediation, Arbitration, And The Courts" can be found at 3 China-EU Law Journal 117-142 (2014). Additionally, he is presenting a paper in Hong Kong in November on "Collective Bargaining Developments in China: Guangdong Regulations a Model?" He also is working on two book chapters that will be reported in the next Bulletin.

Activities of the International Labor Law Journals Association

by Steve Willborn

The International Association of Labour Law Journals is a cooperative association of 27 labor law journals from around the world. At their annual meetings, the journal editors usually talk about a substantive topic and about the problems they face in producing their volumes. The web page of the Association lists its members and has information about its meetings and activities at: <http://www.labourlawjournals.com>.

At its recent annual meeting in Dublin, the Association formally approved the publication of a yearbook of selected articles published in member journals during 2013. Studies by scholars from several western European countries, Canada, Hungary, South Africa, Thailand, and Australia were among the selections drawn from 14 journals. I've read all the articles and they provide really interesting perspectives on the experiences in their home countries (of course), but also good perspectives for thinking about our own experiences in the United States. For example, Jeremias Prassl from Oxford writes about very provocative British legislation that permits employers to avoid important employment obligations (including unfair dismissal protection) in return for shares of employer stock of at least £2,000. Brian Langille and Josh Mandryk from the University of Toronto write about labor legislation in Canada that proposes to change majoritarianism principles to address free rider problems; the legislation's solution is to have the protections of collective agreements apply only to union members. That solves the free rider problem, but my raise other problems by changing the very structure of Canada's Wagner-based system. Adalberto Perulli from the University of Venice talks about disparate and interesting approaches to joint employer status in several countries including France, Australia and the United Kingdom. This article, of course, has great resonance on the same issue here in the United States. (A warning: the articles are all published in their native languages, and Perulli writes in Italian. Time to brush up on

your college Italian?) In sum, I am sure that you would find these articles and others in the volume to be interesting, different from your normal reading, and quite provocative.

I expect this volume to be available electronically on the Association website pretty soon, maybe even by the time you receive this newsletter. It will also be available in hardcopy later. And here's my special request to you. Please consider buying a hardcopy version and, even more, please encourage your library to purchase a copy. The Association is hoping to produce a volume like this annually, and a modest revenue stream from publication would help make that possible. Please see if you can arrange for the purchase of one or two hardcopy versions of the volume.

Additional Conferences

Nov. 2-5, 2014, Darwin, (Australia) Joint Conference of the International Employment Relations Association and the Pacific Employment Relations Association. Hosted by Charles Darwin University at the Mantra on the Esplanade, Darwin.

For details, see: <http://iera.net.au/iera-conferences/>

30 January 2015, London, IERA (Europe) Symposium

IERA (Europe) is holding its first symposium, in association with the University of Greenwich Work and Employment Research Unit, at the University of Greenwich, Hamilton House. The symposium theme is: Central and Eastern European employment relations in perspective. Further details can be found at: <http://iera.net.au/iera-symposiums/2015-iera-europe-symposium/>

Sep. 7-11, 2015, Cape Town, South Africa. 17th ILERA World Congress, Sun Hotel and Conference Centre. Overall theme: "The Changing World of Work: Implications for Labor and Employment Relations and Social Protection" Details available at: <http://www.ilera2015.com/>

This meeting precedes the International Society's world conference that will be held in Cape Town Sep. 15-18.

Other Items of Interest

In a note in the ADAPT Bulletin, Prof. Manfred Weiss reports that although minimum wage standards in Germany long relied on collective agreements and their extension to all workers in an industrial sector, it has now adopted a minimum wage law. The initial minimum hourly rate of €8.50 will go into effect at the beginning of 2015. (At the time the minimum rate went into effect it was the equivalent of over US \$11.) Thereafter a commission comprised of an equal number of members recommended by the leading employer and union organizations will annually propose any changes in the rate.

Under Australian law an employee whose absence is not covered by paid leave or by workers' compensation is not protected from dismissal for extended absence due to illness or injury if it extends for more than 3 months or there has been a total of more than 3 months of absence in a 12 month period. Nevertheless, it has been held that statutory protections against discrimination because of a person's physical or mental disability will bar dismissal unless the employer can show that the extended illness or injury is so severe that within the foreseeable future and with reasonable accommodations, the employee will be unable to fulfill the core requirements of the position.

McGarva v Enghouse Australia Pty Ltd [2014] FCCA 1522; *Watts v Australian Postal Corporation* [2014] FCA 370.

Book recommendation by the University of Toronto Center for Industrial Relations and Human Resources: THE PRICE OF RIGHTS: REGULATING INTERNATIONAL LABOR MIGRATION, by Martin Ruhs, Princeton University Press, 2013. 254 p. ISBN 9780691132914 (hardcover)

The Price of Rights analyzes how high-income countries restrict the rights of migrant workers as part of their labor immigration policies and discusses the implications for global debates about regulating labor migration and protecting migrants. It comprehensively looks at the tensions between human rights and citizenship rights, the agency and

interests of migrants and states, and the determinants and ethics of labor immigration policy.”

In May, Wolters Kluwer Law and Business published the latest edition of COMPARATIVE LABOUR LAW AND INDUSTRIAL RELATIONS IN INDUSTRIALIZED MARKET ECONOMIES (R. Blanpain, ed.) ISBN 9041149872. Over two dozen experts prepared 23 chapters for this 888 page hardcover book. Most chapters use the comparative approach in analyzing differences and similarities in national and international approaches to dealing with common labor and employment law issues.

Kluwer Law On-line recently published the update and revision of the U.S.A. monograph prepared by **Roberto Corrada** and **Alvin Goldman** for the INTERNATIONAL ENCYCLOPEDIA FOR LABOUR LAW AND INDUSTRIAL RELATIONS.

Early next year ADAPT, the non-profit organization dedicated to international and comparative studies and research in industrial relations, training and labour markets, will select several recent graduates in law, economics, sociology or languages for internships for 3 to 6 months in Bergamo and Rome, Italy. Those selected will be involved in ADAPT international projects and will receive expense reimbursement based on their age and previous experience. Those working in Bergamo may additionally receive lodging at ADAPT's guest apartment. English is one of ADAPT's working languages. If you know someone who might be interested, please encourage them to their resume and a cover letter to: selezione@adapt.it.

If a dues invoice accompanied this Bulletin, please give it your prompt attention.