

BULLETIN

of the

U.S. BRANCH

INTERNATIONAL SOCIETY for LABOR and SOCIAL SECURITY LAW

ALVIN GOLDMAN, *editor*

May 2014

[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 recently received the ISLSSL Treasurer's Report for Calendar Year 2013 as prepared by our Treasurer, Steve Willborn. The report shows a continuing decline in membership. We had 92 dues-paying members in 2013, which is down from 102 and 110 in 2012 and 2011, respectively. The aging of labor and employment academicians, along with increasing retirements and deaths, certainly are part of the explanation. So too is the "bowling alone" phenomenon which has contributed to the recent shrinkage in many membership organizations.

But this trend is puzzling in light of the ever-increasing importance of international labor and employment law. The International Labor Organization, International Framework Agreements, Works Council directives, and labor clauses in multi-national treaties all nudge workplace governance across national boundaries.

We need to think creatively about how to reinvigorate our organization and grow the membership. While I plan to engage the officers and board of directors in such a dialogue, I would like to encourage the entire membership to submit their ideas. How do we incentivize participation in international conferences such as those taking place later this year in Italy and Ireland? Do we need more and better programming within the boundaries of the United States? Like what? And how can we attract new, less experienced members?

As a start, please urge colleagues in your firm, organization or school to join. I look forward to your further suggestions.

Remembrance- Edwin Render

Prof. Edwin Render, who died on Jan. 4th, served on the US Branch Board for several terms and for many years was co-editor of this Bulletin. Ed joined the University of Louisville law faculty in 1968 where in more recent years he taught labor law and evidence. Many of our members had personal contact with Ed as a result of his activities as an arbitrator or as Director of the Carl A. Warns Labor and Employment Law Institute. Under Ed's guidance the Institute's annual continuing legal education conference became a nationally recognized program.

Ed had a special enthusiasm for his work as a coal industry arbitrator, an interest that led him to publish a study comparing the US approach to labor relations in the industry with that of other countries.

In addition to being a devoted family man, Ed also loved serious music, flew twin-engine planes to arbitration hearings in more remote locales, and often hiked and climbed high mountains.

As Ted St. Antoine observed elsewhere, Ed was "gentle, low-key, self-effacing . . . and yet managed to get lots of important things done quietly and efficiently, drawing little attention to himself in the process."

New Web Site for International Society

The banner for the Bulletin now contains the address for the new web site maintained on behalf of the International Society. You are encouraged to visit it to see the improved format and links to useful sources.

Up-Coming Conferences and Seminars
-July 1-10, 2014, Seminar on International and Comparative Labour Law at the Ca' Foscari

University of **Venice**, Italy. Co-sponsored by ISLSSL. English is the working language. Registration fee: 1,220 Euros (covers seminar, lodging, some meals, 2 daily coffee breaks and VAT). Participants will be housed in the University Junghans residence hall.

Faculty includes Prof. Adrian Goldin, Prof. Jean-Michel Servais, Prof. Antoine Lyon-Caen, Prof. Manfred Weiss, Prof. Lance Compa, Prof. Tiziano Treu, Prof. Silvana Sciarra among others.

For details: <http://islssl.org/es/seminario-de-derecho-internacional-y-comparado-del-trabajo-venecia-italia>.

Application: dirittodellavoro@unive.it

-September 17-19, 2014, Dublin, Ireland. XI European Regional Congress of Labor and Social Security Law. Theme I: Labor Rights or Human Rights; Theme II: The Legal and Extra Legal Remedies against Discrimination; Theme III: Social Security issues and State Support for the Wage-Work Bargain; Theme IV: Alternative Dispute Resolution. In addition there will be roundtable panels discussing: Whistleblowing; Economic Crisis and Labor Law Reforms; Data Protection and Workplace Privacy; and Publishing Opportunities for Labor Law and Social Security Law Research.

All activities, other than those for the meetings of the Executive Committee and the Congress Dinner, will be on the Belfield Campus of University College Dublin. Early bird registration for ISLSSL members is €395, later registration for members €495 and young academics and practitioners €200/240, and students €85. More complete program and registration information can be found at:

<http://www.dublinlabourlaw2014.com>

The ISLSSL Executive Committee will meet the first day of Congress to, among other business, elect the new President for the period 2015-2018.

In addition, the 2014 annual meeting of the International Association of Labor Law Journals will be held in Dublin in conjunction with the European Regional Congress. This meeting will take place the day before the beginning of the Congress.

During the Congress there will be a Young

Scholars Session on Wednesday, 17th September, 12:30– 2:30 p.m.

-November 14-15, 2014 International conference “Social Boundaries of Work – Changes in the Sphere of Work in 21st Century Capitalism”, **Wroclaw, Poland**. (Wroclaw, the largest city in Western Poland, is the capital of Silesia.)

The conference will be organized around two themes: (1) sociological, philosophical, ethical, legal and economic theories of work, and (2) the practitioners’ view of labor market policies and career counseling. Conference web site: www.socialboundariesofwork.pl

-November 19-21, 2014, Asian Labour Law Seminar, **Manila**, The Philippines. The expected venue is the University of the Philippines.

The seminar will explore the experiences of the various countries in the region in relation to the impact of globalization, in particular to its labor administrations. See the Society’s web site for up-dates.

-September 14-17, 2015, World Congress of Labour Law and Social Security to be held in **Cape Town**, South Africa, at the Cape Town International Convention Centre.

Theme I: Bargaining collectively and beyond; Theme II: Equality and industrial citizenship as conceptual foundations for labor law; Theme III: Towards sustainable social security in an insecure world; Theme IV: Labor law in the developing world (South Africa in a comparative perspective). It is anticipated that there will also be workshops on:

1. Overall labor market and transnational labor law, and 2. Labor migration in the context of on-going globalization process. Further details are available at:

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

-August 13-16, 2014, International Labor and Employment Relations Association (ILERA), **Bogota**, Columbia. This will be ILERA’s 8th Regional Congress for the Americas and will be held at the Hotel Tequendama. Additional information should soon be available at the link found at:

<http://www.ilo.org/public/english/iira/congresses/index.htm>

-September 7-11, 2015, World Congress of International Labor and Employment Relations Association (ILERA), **Cape Town**, South Africa. Additional information should soon be available at the link found at:

<http://www.ilo.org/public/english/iira/congresses/index.htm>

ADAPT INTERNATIONAL

In its BULLETIN No 7/2014 Adapt offers on-line links to a number of reports that may be of interest to US readers. One report, for example, assesses the effectiveness and problems of Canadian apprenticeship programs. Another outlines the requirements of a new European Directive to give greater protection of the right of EU residents to find work throughout the Union, and a third summarizes OECD findings respecting the increased tax burdens on worker income in 25 out of 34 industrialized nations.

(http://adapt.it/english_bulletin_nuovo/?page_id=146)

Relevant Member Activities

In the last three months **Jay Youngdahl** has been doing a bit of traveling speaking on employee benefit issues. Among the places visited were Capetown, London, and Vancouver. The theme of several of his talks: "Investment Consultants and Institutional Corruption." His paper on this subject is available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2255669

In June, Prof. **Ron Brown** moderated a panel on comparative law in Barcelona at the Inaugural Conference of the Labor Law Research Network. He also prepared the 2013-2014 survey of the *U.S. System of Industrial Relations and Labor and Employment Laws* sponsored by the European-based Eurofound.

Ron has a forthcoming article dealing with comparative US-Korean aspects of subcontracted workers, exclusive recognition, and the unions' duty of fair representation. In Novem-

ber, at the Italian Cultural Institute in the Italian Consulate, he presented a paper on structuring free trade agreements. Additionally, in early December Prof. Brown delivered a paper, "Measuring China's Social Insurance Law Under International Standards of ILO and Influences of Social Dimension Provisions of FTAs and BITs; and Treatment of Foreigners" at the International Symposium on Social Insurance Law: Implementation and Enforcement held in Beijing.

Prof. **Katherine Stone** delivered the prestigious 116th UCLA Faculty Research Lecture on April 16. The topic: "Rupture and Invention: The Changing Nature of Employment, the Vanishing Middle Class, and Implications for Social Policy."

Stephen Moldof recently moderated and spoke on a panel "Multinational Business Operations in Israel: Development and Challenges" at the International Labor & Employment Law Committee's Meeting in Tel Aviv, Israel. Additionally, at the Section's annual Labor and Employment Law Conference in Los Angeles (Nov. 5-8, 2014) Steve will again serve in dual capacities, this time on the topic "Alternative Forms of Union Representation: Myth and Reality in North American? The Globalization of Labor Relations for Multi-National Companies."

In early April **Arnold Zack** attended the 20th anniversary Celebration of the Administrative Tribunal of the International Monetary Fund where he chaired a panel on the differences between the law and practice in US Courts and Jurisprudence of International Agencies in handling performance appraisal issues and sexual discrimination issues. Although after 9 years his service as a Judge and President of the Asian Development Bank Administrative Tribunal has ended, he continues to consult for various tribunals on the design of their procedures.

In March **Tom Kochan** and **Arnold Zack**, under the auspices of MIT and its affiliated Chinese business schools (Tsinghua, Fudan and Lingnan), spent a week in Guangzhou

(Canton), China, conducting meetings at various institutions developing dispute resolution and negotiation machinery to help cope with the rising incidence of strikes and “boss napping” in Guangdong. This trip was part of a three-year program. This coming October they are scheduled to return to Guangzhou and Shanghai to help develop the first courses to be offered in China on workplace dispute resolution, negotiations and mediation.

Prof. **Tom Kohler** recently published *Comparative Law in a Time of Globalization: Some Reflections*, in Symposium: Comparative Law in a Time of Globalization, 52 Duquesne L. Rev. 101 (2014). Additionally, at Boston College Law School Tom is the faculty host of Aiko Abe, of the Japanese Ministry of Health, Labor and Welfare. Ms. Abe is engaged in a comparative study of American labor and employment law as part of a law revision project for the Ministry.

Reminder

Members are invited to send in reports of their activities relating to comparative and international labor and employment law and to submit short provocative or informative pieces (or both) relating to our area of common interest. Submissions should be e-mailed to goldmanalvin@me.com. More formal studies, of course, should be submitted to the US Branch’s co-sponsored refereed Comparative Labor and Employment Law Journal (law-cllpj@illinois.edu).

Books to Donate?

Arnold Zack reports that the recent rash of strikes in China has both worker and employer groups looking for training in dispute resolution. As a result, Sun Yat Sen University is seeking donations of books on labor negotiation, mediation and arbitration. The State Department will ship books received at its Washington APO, reducing the donor’s cost of shipping to the book rate to the APO. If you wish to participate in this effort, to avoid duplication please contact Arnold for an update respecting their needs and the shipment procedure. (azack@law.harvard.edu)

Foreign Workers: A Canadian Issue

Recent articles in The Globe and Mail debated the growing issue in Canada respecting the value of its Temporary Foreign Worker program. Begun in 1992, the program was intended to fill short-term labor force needs that were not being met by Canadian workers.

Although the numbers are small (something over 300,000 a year) in relation to the undocumented work force in the U.S., the impact is sizable for several sectors of the Canadian economy. The hospitality sector, for example, had 45,000 guest workers in 2012 and it was estimated that they held 40 per cent of new positions in the past few years.

One observer argues that use of temporary foreign workers creates both social problems and economic distortions. “Over time, easy access to TFWs leads to firms offering less training and lack of adjustment in wages, especially in low-skill jobs. This makes many occupations less attractive to domestic workers, thus generating a rising demand for TFWs and potentially higher domestic unemployment. This is particularly true for low-skill workers, who generally face unemployment rates at least twice higher than skilled workers.” One solution, it is argued, is to make all immigrant workers permanent residents.

Others argue that Canada needs improved labor market data and more carefully targeted temporary worker permits limited solely to those areas with actual work force shortages. A recent reform has increased from two to four weeks the time that employers must advertise for open positions before hiring a Temporary Foreign Worker. Increased minimum wage requirements and increased TFW hiring permit fees are among the other recommended changes.

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BULLETIN IS YOUR 2014
DUES INVOICE.
PLEASE SEND YOUR CHECK
PROMPTLY TO PROF. STEVEN
WILLBORN.**