

**BULLETIN**  
of the  
**U.S. BRANCH**  
**INTERNATIONAL SOCIETY for LABOR and SOCIAL SECURITY LAW**  
ALVIN GOLDMAN, *editor*  
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[U.S. Branch web site: [lawhelp.github.io/islssl/board.html](http://lawhelp.github.io/islssl/board.html)  
Int'l Society web site: <http://islssl.org/>]

**Notes From the Chair**  
by **Steve Befort**

With the election of new officers on the horizon, this will be my last column as Chair of the U.S. Branch of ISLSSL. I want to express my gratitude for the professional and personal opportunities that this position has enabled.

On a personal note, I very much enjoyed representing our branch at a North American Congress in Ecuador and a European Congress in Dublin. The programs were great and so were the opportunities to meet many of our international compatriots. I also learned much from two programs that we sponsored within the U.S. borders, namely the program on the gig economy in Philadelphia and program on social media in Fort Worth. Thanks to **Matt Finkin** for organizing both.

I also want to congratulate our membership for contributing to ISLSSL activities in so many ways, such as in preparing papers and participating on panels for conference and for contributing research to the seven international research groups established at the Cape Town World Congress. And, we can all be proud of the Comparative Labor Law & Policy Journal, Alvin Goldman's Newsletter, and the election of **Janice Bellace** as ISLSSL President.

Meanwhile a hearty thank you is due to **Steve Wilborn**. Steve has labored long and hard on behalf of our organization as President and then Secretary-Treasurer. He also will be stepping down from office following the new elections, but I am sure that will not be the end of his contributions.

Speaking of contributions, we, as members, need to continue or even step up our efforts on behalf of the U.S. Branch and the ISLSSL. Clearly, we face challenges from a variety of sources, not the least being a shrinking globe, rear guard actions urging isolationism, and a graying of our membership. Your participation is needed to meet these challenges.

**JANICE BELLACE to Become ISLSSL President at World Congress in Turin**

As previously announced, **Janice Bellace** will assume the ISLSSL Presidency at the World Congress in Turin, Italy in September. (See below for further information about the World Congress under the heading Up-coming Conferences.) Janice will be the third US Branch member to preside over the International Society and one of less than a handful of scholars to serve as President of both the ISLSSL and the ILERA. Attend the Congress and help welcome Janice to her new responsibilities.

**The International Society Gains New Members**

At the Society's European Congress in Prague last year, the national organizations for Bolivia, the Slovak Republic, and Switzerland were unanimously admitted as Members.

**Up-coming Conferences**

**-May 7– 11, 2018, Venice, Italy.** 5th International Seminar on International and Comparative Labour Law, "The Role of the State and Industrial Relations", at Ca' Foscari University of Venice. Registration Fee: €1000 + (22%Vat)=€1220 Euros. The fee includes accommodation in a single room with private bathroom in a University Residence, breakfast, meals and administration. (English is the working language.) Although the registration deadline was April 2, inquiries as to possible late registration can be made to [stefanobellomo@mm-ba.it](mailto:stefanobellomo@mm-ba.it)

**-Sep. 4-7, 2018, Turin, Italy.** XXII World Congress of the International Society for Labor and Social Security Law, "Transformations of Work: Challenges for the National Systems of Labour Law and Social Security." For registration, program and additional information, go to: [islssltorino2018.org](http://islssltorino2018.org)

The Young Legal Scholars Section of the Society plans to conduct sessions on Sep. 4<sup>th</sup>.

**-Sep. 4-6, 2019, Cordoba, Argentina.** XI<sup>th</sup> American Regional Congress of the International Society for Labor and Social Security Law. The

website, program and other details should be available in the next Bulletin.

**-July 23-27, 2018, Seoul, South Korea.** 18<sup>th</sup> IL-ERA World Congress. Theme: Employment for a Sustainable Society-What is to be Done? Details respecting the program, registration, lodging and side trips can be found at: [www.ilera2018.org](http://www.ilera2018.org)

**-May 7-9, 2018, Balaclava, Mauritius.** 8<sup>th</sup> IL-ERA Regional Congress, “Challenges Facing The Future Of Work: African Perspectives And Experiences”, Intercontinental Resort Mauritius, Balaclava Fort, Balaclava. More information can be found at: [www.ilera-africa2018.co.za](http://www.ilera-africa2018.co.za)

**-Oct. 25-27, 2018, Montreal, Canada.** The Interuniversity Research Centre on Globalization and Work will host a conference on “What Kind of Work for the Future? Disruption, Experimentation and Re-/Regulation.” This conference will take place at the University of Montreal’s management school, HEC Montreal. Interested persons are invited to submit original paper and workshop proposals (in English or French).

The proposal deadline was April 20<sup>th</sup>. However, inquiries for a late submission may be sent to: [nicolas.robey@umontreal.ca](mailto:nicolas.robey@umontreal.ca)

-Other tentative ISLSSL congresses. [Regional congresses \(European, Asian and Latin American\)](#) will be held in 2019 or 2020. The dates and locations will be confirmed at the Society’s World Congress in September and the details will be provided in the next US Branch newsletter.

At this time it is anticipated that the European congress will be in Portugal in 2020 and the Asian congress will be in India. US members are welcome to all regional congresses. Normally, English is a working language at these events.

### **Course of Study**

ADAPT, the Doctoral School in Human Capital Formation at the University of Bergamo, and Labour Relations, University of Bergamo, in collaboration with the World Employment Confederation, will conduct a course of study from Nov. 30-Dec. 1, 2018, on “Professionalism, Employment Contracts and Collective Bargaining in the Context of Social Innovation.”

Registration is by application and is free. Applicants must submit an abstract of their paper by Sep. 1, 2018; notification of selection: will be by Sep. 30, 2018; confirmation of participation will be due by Nov. 3, 2018. The English language registration form and additional details are available at: <http://englishbulletin.adapt.it/events-2/>

### **New Book**

THE NOTION OF EMPLOYER IN THE ERA OF THE FISSURED WORKPLACE, edited by Hiroya Nakakubo & Takashi Araki, was published in late 2017 as part of Kluwer Law International’s series *Bulletin of Comparative Labour Relations*. The essays explore both the law and developments of ten countries respecting contemporary multi-layered business structures and work arrangements and the extent to which employer responsibilities go beyond the boundaries of the “employing” legal entity. The national reports cover Australia, China, France, Germany, Japan, the Republic of Korea, Spain, Taiwan, the United Kingdom, and the United States. **Matt Finkin** prepared the US chapter.

### **Recent Member Activities**

**Rick Bales** together with Tran Thi Kieu Trang of Hanoi Law University, published “*On the Precipice: Prospects for Free Labor Unions in Vietnam*”, 19 San Diego Int’l L.J. 71 (2017). In December 2017 Rick attended the Australia-Myanmar Institute Annual Conference in Yangon and lectured at the University of Yangon on Labor Arbitration in the U.S. In December 2017 he lectured at both Paññāsāstra University and Royal University of Law and Economics, Cambodia, and in January 2018 at Hanoi Law University. Additionally, Rick was a moderator, peer reviewer, and discussant at the conference *Minimum Wages in Viet Nam: Facts, Debates, Global Experiences, and Recommendations*, Ton Duc Thang University (Đại học Tôn Đức Thắng).

In May 2018 Prof. Bales will serve as moderator of a panel on *Artificial Intelligence in the Workplace*, ABA International Labor & Employment Law Committee’s meeting in Milan, Italy.

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Each year the International Association of Labour Law Journals sponsors a review of articles published in the 27 member journals around the world. This year, **Steven L. Willborn** and two others reviewed 700 such published articles and prepared a report noting and commenting on a few themes from the articles. The reports are published in four journals in English, Italian, French and Spanish. The English language version will soon be available as “Labour Law Beyond National Borders: Major Debates in 2016” in *Employees & Employers: Labour Law & Social Security Review* (Willborn, Kasagi and De Soto).

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In November, **Rip Verkerke** co-authored a paper "Mapping Employment Dismissal Law: A Leximetric Investigation of EPL Stringency and Regulatory Style," that was published as an ILO Working Paper and can be found at: [ilo.org/travail/info/working/WCMS\\_607471/lang-en/index.htm](http://ilo.org/travail/info/working/WCMS_607471/lang-en/index.htm). The paper was also accepted for the October 2017 Conference on Empirical Legal Studies at Cornell.

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**Gillian Lester** together with Hugh Collins (Oxford) and Virginia Mantouvalou (University College London) have a forthcoming book, *THE PHILOSOPHY OF LABOUR LAW*, (Oxford U. Press, 2018)

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**Jay Youngdahl** prepared a chapter on corruption in two professions involved with pension funds and investment in *THE HANDBOOK OF BUSINESS AND CORRUPTION: CROSS-SECTORAL EXPERIENCES* (Emerald Publishing Ltd., 2018). The book presents a cross-national examination of corruption in government and in such businesses as information technology, banking, health care, pharmaceuticals, construction, sports, and the media.

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In March, together with speakers from Ireland, the UK, and Canada, **Steve Moldof** was a speaker and panelist, at a program in Coronado, CA, that was sponsored by the ABA National Conference on Equal Employment Opportunity. The topic: "The Future Direction of Employment Law: Is the US Moving Further Away or Closer to the Rest of the World?"

In May, together with US and EU officials and lawyers, Steve will moderate and speak at the ABA International Labor & Employment Law Committee's meeting in Milan, Italy, on "Industry Deep Dives: Aviation." The speakers will discuss the employment and labor law impacts of recent expansion of low cost and government-subsidized airlines in Europe and the Middle-East.

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In December, **Tom Kohler** conducted a seminar for graduate students on the American Labor and Employment Law system at the Katholische Universität Eichstätt-Ingolstadt (in the Bavaria region of Germany) where he has been named the standing Audi Visiting Professor. His article "Der Wagner Act" appeared in 65 *Arbeit und Recht* G9. This was an invited paper for the History of

Labour Law Initiative, jointly sponsored by the Max-Planck-Institute for European Legal History and the Hugo-Sinzheimer-Institute. Tom has two chapters that are soon to appear: "Solidarity in Crisis: Agency Fees and Beyond", in *FEST-SCHRIFT FÜR THOMAS KLEBE* (Frankfurt am Main: Bund Verlag, 2018) and "Reconcilable Ambiguities? Solidarity from an American Perspective", in *SOLIDARITY IN OPEN SOCIETIES*, (Berlin: Springer Verlag, 2018).

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Several US Branch members have prepared recent US labor or employment law course books: *EMPLOYMENT LAW CASES AND MATERIALS*, SIXTH ED. (Gillian Lester, Steven L. Willborn, Stewart J. Schwab & John F. Burton, Jr., LexisNexis, 2017) and *COLLECTIVE BARGAINING IN A FREE SOCIETY* (Dennis Nolan, Rick Bales & Rafael Gely, West, 2018). (We assume that these works call attention to comparative approaches to common issues and note international law dimensions for various topics.)

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### **The Gig Economy in the European Union**

When the motor vehicle ride booking company Uber brought its business to Barcelona, Spain, it was met with legal resistance from an association of professional taxi drivers that asserted Uber was violating licensing requirements for such services. Its challenge was addressed by the European Court of Justice in *Asociación Profesional Elite Taxi v. Uber Systems Spain SL*, C-434/15, decided late last year.

The issue before the Court was whether Uber's activities are to be considered a transport service, an electronic intermediary service or an information society service. The resolution of that question affects whether, under European law, the service can be subjected to local licensing.

Rejected by the Court was Uber's contention that it is merely a means of making an internet connection between the driver and passenger—a service that would be free from national or local licensing regulation.

Rather, the Court noted that Uber's activity also offers transportation services to those wishing to make a journey by a motor vehicle using a private driver and vehicle that the passenger would not otherwise use and who the private driver would not otherwise carry.

The Court additionally observed that Uber intervenes in the carriage arrangement by imposing a maximum fare for the service and exercises

some control over the quality of the vehicle, the driver, and the latter's conduct by establishing criteria for a driver's continued access to its services. Accordingly, the Court concluded that Uber's operation is not insulated by European law from national or local licensing requirements.

### **Dismissal Law in China**

The Japan Institute for Labour Policy and Training recently hosted Professor Kungang Li Professor of the Law School of Anhui University, China who prepared a report "A Comparative Research on the Dismissal and Compensation Systems of China and Japan." Among other things, the report describes current law governing dismissals in China. (The full report is available at: [jil.go.jp/profile/documents/kungang-li.pdf](http://jil.go.jp/profile/documents/kungang-li.pdf))

Among the points covered, in China if economic reasons force a reduction of the lesser of 20 workers or below 10% of the workforce, the dismissed workers are entitled to 30 days' advance notice of dismissal or a month's wages. Larger workforce reductions require 30 days' prior consultation with the workers or their union and sub-

mission of a plan of action to the Administrative Department of Labor as well as 30 days' advance notice of the actual termination date or a month's wages.

Additionally, terminated workers are entitled to severance pay of one month's wages at the most recent rate for each full year worked. (A period of six months but short of a year is counted as a full year.) Higher paid workers receive severance pay of three times the average monthly wage in the area with a cap of twelve years of service credit.

Disputes regarding dismissals normally are resolved in the first instance by a tripartite tribunal with a union representative, a management representative and a presiding officer appointed by the Department of Human Resource and Social Security. The award is capped at the minimum wage times twelve months. Although workers can be reinstated in appropriate cases, they normally opt for the monetary remedy. A court can set aside an award only if the tribunal erred in applying law or regulations, it exceeded its scope of authority, the prevailing party hid material evidence, or the tribunal engaged in corruption or malpractice.