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The experience of six OECD countries, 1970–2010

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Simon DEAKIN, Jonas MALMBERG and Prabirjit SARKAR

Using longitudinal data on labour law in France, Germany, Japan, Sweden, the United Kingdom and the United States over the period 1970–2010, the authors estimate the impact of labour regulation on unemployment and the labour share of national income. Their dynamic panel data analysis distinguishes between the short-run and long-run effects of regulatory change. They find that worker-protective labour laws in general have no consistent relationship to unemployment but are positively correlated with labour's share of national income. Laws specifically relating to working time and employee representation are found to have beneficial effects on both efficiency and distribution thus proxied.

KEYWORDS: UNEMPLOYMENT, LABOUR LEGISLATION, WORKERS RIGHTS, EQUAL RIGHTS, COMMENT, TREND, FRANCE, GERMANY, JAPAN, SWEDEN, UK, USA.

- 29 The ILO and the right to strike Janice R. BELLACE

The author argues that the June 2012 challenge by the ILO Employers' group to the hitherto generally accepted view regarding the right to strike under the Freedom of Association Convention, No. 87, is at odds with the historical understanding of the framework in which the Convention is embedded. She demonstrates how the ILO constituents have consistently recognized that there is a positive right to strike, which is inextricably linked to – and an inevitable corollary of – the right to freedom of association. The article also analyses the relative roles of the ILO supervisory bodies in this regard.

KEYWORDS: RIGHT TO STRIKE, FREEDOM OF ASSOCIATION, ROLE OF ILO, INTERNATIONAL LABOUR STANDARDS, COMMENT.

- 71 Leaks, legislation and freedom of speech: How can the law effectively promote public-interest whistleblowing?

Björn FASTERLING and David LEWIS

Attention is increasingly being focused on leaking, whistleblowing and associated compliance and incentives questions. The authors outline the differences between leaking and whistleblowing, notably on protection of the disclosers. They review provisions of international conventions on human rights and corruption, and compare approaches to protecting freedom of speech in France, Germany, the United Kingdom and the United States. Their findings highlight the complex, sometimes conflicting issues involved: public, individual, commercial and financial interests; abuse of power; security; confidentiality; the individual as law enforcer; and the employment relationship.

KEYWORDS: CONFIDENTIALITY, DATA PROTECTION, FREEDOM OF SPEECH, FREEDOM OF ASSOCIATION, LEGISLATION, INTERNATIONAL LAW, COMMENT, FRANCE, GERMANY, UK, USA.

- 93 Organizing migrant care workers in Israel: Industrial citizenship and the trade union option

Guy MUNDLAK and Hila SHAMIR

The authors examine the feasibility of trade unionism for migrant care workers, based on a recent organizing drive in Israel. Distinguishing between trade unions and other civil society organizations, they re-examine the concept of workers' collective action, looking at what constitutes a trade union and to what extent unions can address the specific concerns of migrant care workers. They conclude that, despite the numerous problems involved in organizing migrant care workers, and the vulnerabilities intrinsic to migration processes, gendered work and the occupation of care, trade unions play an important role in establishing industrial citizenship and forming political agency.

KEYWORDS: MIGRANT WORKER, CARE WORKER, WORKERS RIGHTS, WORKING CONDITIONS, LABOUR RELATIONS, TRADE UNION ROLE, ISRAEL.

- 117 Pressing the right buttons: Australian case studies in the protection of employee entitlements against corporate insolvency

Helen ANDERSON

Looking at recent cases where employees in Australia managed to salvage their accrued entitlements when their company became insolvent, the author considers the factors which contributed to those successful outcomes. Comparing those examples with cases where workers in similar circumstances were not so fortunate, she shows that the successful protection of entitlements is often a matter of timing, strategic choices, innovative approaches, regulator intervention, union pressure, political expediency or a happy confluence of circumstances. Someone, somewhere, has been "pressing the right buttons". Lessons will be drawn from the cases considered here, she argues.

KEYWORDS: WAGE PROTECTION, LABOUR DISPUTE, AUSTRALIA.

- 143 The ILO's Domestic Workers Convention and Recommendation: A window of opportunity for social justice

Martin OELZ

Domestic workers are a largely female workforce whose social and labour rights remained largely unattended for decades. Addressing this has become more urgent, as demand for household and personal care services is increasing. Convention No. 189 and Recommendation No. 201 set out global minimum standards for domestic work. The author first describes international labour and human rights law on domestic work prior to 2011. He then examines the instruments' definitions and scope and problems of particular groups; their provisions on working time, pay, work environment and living conditions; social security; and implementation and enforcement.

KEYWORDS: DOMESTIC WORKER, WORKERS RIGHTS, ILO CONVENTION, ILO RECOMMENDATION, COMMENT.