

Industrial & Labor Relations Review

Volume 59, Issue 2

2006

Article 83

Fighting for a Living Wage

Stephanie Luce*

*,

Copyright ©2006 Cornell University. All rights reserved.

ing the imbalances noted, and his discussion of obstacles to the full exercise of freedom of association, could serve as a good starting point for U.S. industrial relations specialists to address what the government itself described in a 1999 report to the ILO as “aspects of [the] system that fail to fully protect the rights to organize and bargain collectively of all employees in all circumstances.” Compa’s thoughtful recommendations reflect a significant effort to resolve the infringements and inequities noted not with an external model, but rather with proposals carefully crafted to take into account the rights of employers and the particular national context within which such solutions would need to work, delicately balancing competing rights and interests.

For example, when he examines the “imbalance in communication power” and section 8(c) of the NLRA, known as the employer free speech clause—repeal of which has been called for by many workers’ advocates—Compa acknowledges employers’ right to communicate, while arguing that the *balance* of rights accorded employers and employees is lopsided in favor of the former. He thus calls for “more free speech for workers, not less free speech for employers”; in particular, he recommends workplace access for union representatives, as well as closer scrutiny by the NLRB to guard against the potentially coercive effect of employers’ information campaigns. While those in the labor field may be divided on the extent to which one basic right (freedom of speech) can be legitimately used to counter the exercise of another basic right (freedom of association), Compa’s carefully tailored suggestions taking into account the rights and interests of both parties define some common ground that could encourage dialogue. Given the large number and many types of violations the NLRB has identified over the years, as shown by statistics cited throughout the book, such a dialogue should be welcome.

The introduction to the 2004 edition of *Unfair Advantage* describes the progress that has been made since 2000 in some of the cases studied. Some of these cases were resolved, wholly or partly, and it is worth reflecting on what elements favored resolution. Unfortunately, some cases of continued violation are also noted.

The book’s international perspective is reinforced with a summing up (also in the introduction) of recent views on the *Hoffman Plastic* case by the Inter-American Court of Human Rights (IACHR) and the ILO’s Committee on Freedom of Association (CFA). The IACHR advi-

sory opinion held that undocumented workers were entitled to the same labor rights, including wages owed, protection from discrimination, health and safety at the workplace, and back pay, as citizens and others working lawfully in a country, and the ILO’s CFA considered that the remedies available under U.S. law for “illegal dismissals of undocumented workers [were] inadequate to ensure effective protection against acts of anti-union discrimination.” These two positions from international bodies go yet another step toward formally affirming the status of freedom of association as a fundamental human right.

The concluding chapter in the 2004 edition, while noting that progress is slow, argues that “a climate changing effect is under way that could help move U.S. labor law toward a human rights foundation.” The author’s brief for analyzing U.S. labor law from a rights perspective versus an economic perspective harmonizes with and complements his case-specific arguments. In addition, reinforcing the universal nature of freedom of association, Compa cites the recent use of regional bodies and instruments, or legal decisions emanating from other national jurisdictions that protect this freedom. These examples add force to the argument for placing this freedom among the fundamental principles at work, as the ILO has done for over half a century. The human rights approach taken to workers’ rights of freedom of association and collective bargaining has, I am sure, already begun to foster “new ways of talking and thinking about labor law in the United States,” as demonstrated in the recent debates recounted in the introduction.

This second edition of *Unfair Advantage* not only permits a renewed dissemination of the important work carried out by Lance Compa and Human Rights Watch to uncover many unknown nooks and crannies of U.S. labor law and practice, but also advances the debate on workers’ rights as human rights. It opens areas to public exposure and discussion that have all too often been the exclusive domain of little-heard specialists.

Karen Curtis

Deputy Director of the International
Labour Standards Department
International Labour Office
Geneva

Fighting for a Living Wage. By Stephanie Luce. Ithaca, N.Y.: ILR Press (an imprint

of Cornell University Press), 2004. 272 pp. ISBN 0-8014-4287-7, \$45.00 (cloth); ISBN 0-8014-8947-4, \$18.95 (paper).

Fighting for a Living Wage uses qualitative evidence to assess how well living wage laws are implemented, to characterize variation in implementation, and to attempt to understand what efforts by living wage activists influence implementation. It is also a bit of a “how-to manual” for living wage activists—reflecting a somewhat unusual mix of activism and research.

The book first reviews research on the politics of policy implementation, highlighting the frequent failure of enacted policies to be enforced and identifying factors likely to influence implementation. It then describes the context in which the living wage movement came to fruition, pointing to an emerging emphasis on the “working poor” (although the relationship between low wages and poverty has generally diminished in recent decades), and discussing both mainstream and progressive municipal economic development policies and how living wages fit into the latter agenda. After describing living wage laws and some particular campaigns, in the core of the book the author uses information from interviews and other sources to characterize actual implementation of living wage laws, and to analyze why implementation differences emerge, including the extent to which efforts from “outside” (such as protests) and “inside” (such as advisory boards and task forces) contributed to strengthened implementation. Finally, she considers outcomes of living wage campaigns beyond the implementation of living wage laws.

Luce’s general conclusion is that fighting from the outside as well as building coalitions that work from the inside both help to secure stronger implementation of living wage laws. She also argues that, ironically perhaps, living wage campaigns that are more vigorously contested end up with greater outside and inside involvement and hence better implementation. The success of this book hinges in large part on how convincingly it makes the case for these conclusions.

The author points to cities in which outside or inside activities—or sometimes both in combination—seemed to spur implementation. For example, the Los Angeles Alliance for a New Economy (LAANE) used public protest and other means to ensure that the city’s living wage law was applied to airline employees and employees of their subcontractors at LAX. How-

ever, given Luce’s ambitious efforts to assemble information on most living wage laws and their implementation, I would have preferred more extensive documentation of the patterns of the relationships between inside and outside efforts and living wage implementation.

Luce focuses on formal implementation. But the ultimate test of implementation is whether living wage laws result in higher wages for covered workers and possibly other workers (whatever other effects ensue). The effects of living wage laws could vary independently of the variation in implementation that Luce measures, in part because her measures are imperfect. Luce’s classification of living wage implementation and its consequences would have been better corroborated if the book had combined the existing research on the effects of living wage laws on wages, employment, and poverty with the new information it assembles on implementation, and tested whether variation in implementation and efforts to strengthen implementation are associated with variation in the effects of living wage laws on low-wage workers.

Luce also does not explore differences between the achievement of the maximal goals of living wage activists and implementation that seeks to balance the competing goals and effects of living wage laws. Instead, “implementation” is generally equated with the former; an example is the discussion of whether living wage coalition members in Los Angeles would provide workers with training and education about living wage laws. Governments frequently pass laws that are very short on details, which are subsequently filled in by administrators and regulators. It should be recognized that there is likely to be give and take in this latter process, and that a failure by activists to secure a living wage law exactly conforming to their wish list is not necessarily an implementation failure.

As usual, the trickier questions concern causality. When conditions are ripe for strong implementation, inside or outside efforts by activists can help move things along, or even be welcomed by city workers as a means of helping with implementation (for example, by creating channels for information about employer violations—although more neutral channels might be preferable). But the efforts by activists may not have been the causal factor. The case studies of particular laws highlight potential problems in drawing causal inferences. Luce often documents activities by worker or community organizations and subsequent greater enforcement, and then concludes that these activities were the causal factor. But we do not

know the counterfactual—what would have happened absent this particular activity. Moreover, Luce provides examples in which pressure applied by activists to strengthen implementation had no effect (such as in Detroit and St. Louis). I suspect that inside and outside efforts ultimately do contribute to better implementation, but wonder whether the book overstates the causal impact of activists' efforts.

The question of causality looms particularly large with respect to the claim that a more contested living wage campaign leads to more inside and outside efforts and stronger implementation. We would expect that among the more contested campaigns only those with the strongest involvement and support from community and labor groups will succeed, so that the relationship between implementation and how strongly a campaign was contested (which Luce does document) may reflect more of a selection effect than a causal effect of contestation.

The most striking argument in this book surfaces in Chapter 10. By this point, the reader has a pretty clear understanding of Luce's skepticism of market-based emphases of municipal economic development policies and other economic policies. Here, though, she argues that the most important criterion for success of living wage campaigns might not be whether they help workers but rather whether they lead to a broader ideological shift in policy-making:

In many cities the number of workers actually covered by an ordinance is quite small, and in numerous cities workers who should be receiving higher wages are not because of weak implementation.... In the end, living wage campaigns may have their greatest impact in their ability to challenge standard rhetoric about economic development, capital mobility, and the so-called laws of supply and demand. (pp. 205–6).

Much of the analysis that has been generated for cities considering living wage laws by Luce and her colleagues at the Political Economy Research Institute at the University of Massachusetts has emphasized the economic arguments, rather than the broader "ideological battle about the role of government in regulating markets" (p. 195). Luce's frank admission in this book raises questions about the relative roles of ideology and objective empirical analysis in what she has written about the potential or actual effects of living wages, although in fairness this question should be applied to those on both sides of the debate who mix advocacy with research.

For researchers like me who have focused on

econometric analyses of living wage laws, the most valuable contribution of *Fighting for a Living Wage* is the rich detail it provides; while often anecdotal, this helps us understand how living wage laws operate. Here are three examples. As Luce points out, just under half of living wage laws extend beyond contractors to cover businesses receiving financial assistance from cities. It has been difficult to document the application of these "business assistance" laws, but Luce provides an example of a large retail/entertainment development project that was subsidized by the city of Los Angeles and covered under such a law. Second, it has proven difficult to estimate coverage by the ubiquitous contractor coverage provisions of living wage laws. Luce provides information on large groups of workers who, perhaps after some struggle over implementation, were covered by living wage laws—such as thousands of employees of subcontractors of airlines at LAX. And third, one possible motivation for living wage laws is efforts of lower-wage, unionized municipal workers to protect their wages from the downward pressure created by contracting out or threats to do so, and Luce presents evidence that concerns over contracting out did help spur living wage campaigns, although whether they have actually reduced contracting out is uncertain.

Fighting for a Living Wage provides the first detailed, comprehensive look at living wage laws across the country that goes beyond simply documenting the key features of the laws that have been enacted and estimating their effects. Whatever their discipline, scholars with an interest in living wages will find Luce's book fascinating reading for the richness her qualitative research provides about the ins and outs of living wage campaigns—both during the effort to get a living wage enacted and in the aftermath of a campaign, when attention turns to the nuts and bolts of policy implementation. More generally, the book provides an interesting study of the potential gap between the intent of policy and the actual implementation that ensues. Given how wide this gap sometimes is for laws that—in the case of living wages—are quite simple and straightforward, one suspects that the lessons for more complex types of legislation, such as educational reform, are even more humbling.

David Neumark

Senior Fellow
Public Policy Institute of
California