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[Review of the Book *Advancing Theory in Labour Law and Industrial Relations in a Global Context*]

Abstract
[Excerpt] The ideas and insights in *Advancing Theory* are an important contribution to the on-the-ground social justice movement challenging corporate rule in the global economy. It can even help rescue labor law and industrial relations as intellectual disciplines and career trajectories for a new generation of students and practitioners excited about thinking globally and acting locally.

Keywords
workers rights, labor market, industrial relations, labor movement, activism, economic growth, trade, globalization

Comments

Suggested Citation
Compa, L. (2000). [Review of the book *Advancing theory in labour law and industrial relations in a global context*]. [Electronic version]. *Comparative Labor Law and Policy Journal, 20*(1), 125-129.

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BOOK REVIEW

Advancing Theory in Labour Law and Industrial Relations in a Global Context, Ton Wilthagen, editor. (Royal Netherlands Academy of Arts and Sciences, Amsterdam, vii + 254 pp., $103.50 (paperback))

reviewed by Lance Compa†

Advancing Theory in Labour Law and Industrial Relations in a Global Context addresses theoretical problems posed by global economic integration. The collection of 16 papers here ranges widely over issues of labor rights and labor standards in international trade, and how workers and unions might deal with the pressures of global competition.

While globalization is not a new phenomenon and efforts to coordinate a response that protects working people go back a century and more, a new sense of urgency is apparent. A search for solutions is driven by volatile capital flows and the ability of multinational corporations to set up production in developing countries while achieving high levels of productivity.

Editor, Ton Wilthagen, and organizers of a 1996 International Colloquium in Amsterdam, challenged contributors with the proposition that their two disciplines, labor law and industrial relations, have run their theoretical course based on Fordist production methods, Taylorist work organization, industrial unionism, and a social contract framed in the single nation-state. They have a point. Labor law and industrial relations are still analyzed and taught in a mostly domestic context, even while global economic integration is accelerating.

Labor law and industrial relations in industrialized trading partners like Canada and Germany, and in developing countries like Mexico, Brazil, Korea, China, and others profoundly affect workers,

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unions, and companies in the United States. Events in the United States affect them, too. Disputes over the effects of globalization play out here in the political arena, in fights over "fast track" trade negotiating authority or China's entry into the World Trade Organization. On the ground, however, most American legislators, mediators, labor lawyers, contract negotiators, human resources managers, and other actors care little about labor law and industrial relations abroad.

Comparative and international labor law and industrial relations are subdisciplines. They mainly serve as an intellectual prism rather than a dynamic, cutting-edge enterprise tackling the effects of globalization. For a small group of labor comparativists in the United States, it is interesting to see how Canadian labor law treats union organizing, or how works councils operate in German industrial relations, or how Mexico's corporatist labor relations system operates. But beyond a specialized academic community, there is little effect on U.S. labor law and industrial relations practice.

Even in its domestic core, labor law and industrial relations are disciplines in crisis. Two decades ago, labor law was a core course that nearly every student took. In many law schools it was required. Labor-management relations under the Wagner Act and the Taft-Hartley Act, and union governance under the Landrum-Griffin Act, were central forces in American economic and political life. Likewise, industrial relations thrived at many major universities with research on labor-management relations, collective bargaining dynamics, and related topics.

Not any more. In law schools, labor law courses are no longer required, and fewer students take it. Employment law dealing with individual workers in the non-union setting has largely eclipsed union-management labor law as principal labor offerings. Unions are disappearing, so who needs labor law seems to be a dominant perception among students.

In the industrial relations, human resources management has had a similar displacing effect as employment policies in non-union firms appear more important than labor-management relations in a collective bargaining context. Many progressive, pro-labor students who enter Ph.D. programs in industrial relations soon switch to other disciplines—sociology, political science, geography—as prospects for an academic career outside standard HRM discourse seem to diminish.

Can engagement with the forces of globalization give new life to labor law and industrial relations intellectual communities? This book offers an affirmative response. It comes at the same time that a revival of interest in workers and trade unions appears to be taking hold

on campus, reflected in the AFL-CIO's successful "Union Summer" student recruitment programs and a growing student anti-sweatshop movement. There is also a surge of interest in courses and career paths on international labor rights among bright, enthusiastic, and highly motivated law students and industrial relations students.

Advancing Theory suggests that we might be on the verge of an intellectual revival as well. Of the 16 essays, 5 come from the U.K. and 4 from Dutch participants in the colloquium. The rest are spread among Canadian, American, French, German and Italian contributors. They are not neatly summarized, but some selections indicate the measure that the authors bring to their work. They are not panicky about globalization, with dire predictions that the global economy is the end of labor law and industrial relations. Most emphasize that grappling with the global economy does not mean letting go of domestic labor law and industrial relations concerns. It means finding the right means to integrate national and global concerns.

In an essay that reflects much of the spirit of the book, French regulationist Robert Boyer acknowledges that drastic structural changes like flexibilization, individualization, and social deregulation have jeopardized the "architecture" of industrial relations theories based on 1950s Fordist models. He suggests a renewal of IR theory in an integrated framework combining politics, law, sociology, and economics in a way that preserves national models in an international context. Similarly, Ralf Rogowski of the University of Warwick concludes with some optimism that "the globalization of the labor movement takes place at home." He argues that "increased recognition of the local through global exposure supports labor movements," and "the global challenge to workplace industrial relations releases new energies to defend and even strengthen existing institutional regimes."

Cornell law professor Katherine Stone offers models of international labor regulation reflected in the European Union's "harmonization" approach, NAFTA's "effective enforcement of domestic law" approach, and in the United States' unilateral application of labor standards in its trade relations with other countries. She points out strengths and weaknesses in each approach, and invites theorists "to imagine a new model of transnational labor regulation" as a first step toward an equitable global economy.

Italian labor law expert Silvana Sciarra focuses on EU experience and calls for a "constitutionalization" of social rights parallel to market integration. Her analysis is surprising for many U.S. readers who mistakenly think that the European Union has a strong, effective "social charter" of enforceable workers' rights.

For an American reader, several essays offer ideas that sound fine in theory (and this is, after all, a book about theory), but run into practical problems in the United States. Briton Hugh Collins advocates works councils—legally mandated employee consultation bodies distinct from trade unions—as a means of adapting to the "flexible specialization" mode of production driven by globalization. The Clinton Administration's Dunlop Commission made just such a proposal for U.S. law, but the Commission's report sank like a stone. The U.S. unions are not interested in non-union forms of organization that can be manipulated by employers. In a mirror reaction, employers are not interested in government-sponsored workers' groups that could be stalking horses for unions.

Richard Hyman proposes a partnership between industrial relations scholars with social actors confronting the forces of globalization to shape new strategic initiatives. Many trade unionists, however, are still wary about outside intellectuals telling workers and unions what they ought to be doing.

Duncan Campbell of the International Labor Organization argues that protective labor market regulation has benefits, not only costs. High levels of training and productivity associated with high labor standards can outweigh the perceived, but often false, benefits of labor market flexibility and lowered labor standards sought by employers and neoliberal policy proponents.

Campbell makes a strong case. Unfortunately, cheap labor and weak or nonexistent unions are still primary goals for many domestic companies in the United States, as well as for U.S.-based multinational companies that set up operations in developing countries.

Advancing Theory's two Canadian contributors reflect the book's combination of thoughtfulness and passion. Legal scholar Harry Arthurs points out that labor law and industrial relations "are inescapably embedded in and generated by broader and more complex changes in the landscape of state law, politics and political economy." Arthurs cautions that "landscape without memory [which he defines as 'the tacit, informal, and reflexive norms, institutions and processes which constitute and interpret social meaning in the workplace'] is almost unthinkable." Arthurs concludes that the task for labor law and industrial relations theorists is "patiently to reconstruct the landscape of state and painfully recover the memory of workplace normativity."

As this passage indicates, Arthurs' essay is a hard read. Others are, too, with a sometimes difficult level of theoretical abstraction. His compatriot, IR professor Roy Adams, is plainer-speaking but just as acute in his analysis. Adams launches a sharp rebuke to the moral

vacuity of an impersonal market based on the atomization of workers into single production units whose only purpose is higher output at lower cost. Counterpoising values of community and solidarity to the priorities of the global marketplace, Adams calls for a vigorous reassertion of "dignity, security, decency and democracy" to challenge neoliberals' exclusive focus on efficiency.

The movement for social justice dimensions in the global economic arena is the new locus of countervailing power for working people, trade unions and their allies. In many concrete ways, their efforts are bearing fruit. Trade unionists and allied communities have won labor rights clauses in U.S. trade legislation and in the EU's Generalized System of Preferences. They gained international disciplines on effective enforcement of domestic labor law under NAFTA's labor agreement, creating new arenas for international labor solidarity among workers and trade unions in Canada, the United States, and Mexico.

The International Confederation of Free Trade Unions is pressing demands for a social clause in the WTO. The U.S. unions are demanding stronger labor protection in fast track legislation, and have blocked passage of bills that fail to address workers' rights.

There is new dynamism at the International Labor Organization on core labor standards. Corporate codes of conduct are taking shape with a variety of models for monitoring and enforcement of workers' rights.

Trade union-NGO alliances blocked the Multilateral Agreement on Investment in part for its failure to address workers' rights, and are pressing for change at the World Bank, International Monetary Fund, and other international financial institutions. The same alliances forced "civil society" consultations in Western Hemisphere trade talks. In the academy, there is a growing body of literature and courses on international labor rights.

The ideas and insights in *Advancing Theory* are an important contribution to the on-the-ground social justice movement challenging corporate rule in the global economy. It can even help rescue labor law and industrial relations as intellectual disciplines and career trajectories for a new generation of students and practitioners excited about thinking globally and acting locally.