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## Are Workers' Rights Human Rights?

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### Industrial Relations Theory

*Are Workers' Rights Human Rights?* By Richard P. McIntyre. Ann Arbor: University of Michigan Press, 2008. 222 pp. ISBN 978-0-472-05042-0, \$24.95 (paper).

Scholars across the social sciences have recognized the need to situate their work in relation to the idea of human rights. This task poses a unique challenge to the heterodox or institutional labor economics community, which may not feel the need to engage in such an endeavor given the historical position that institutionalists have occupied as the official antagonists to orthodox neoclassical market economics. Why express concern about some post–World-War-II-era legal constructions when their work critiques more fully the ravages of the unregulated market? In this book, Richard McIntyre critically evaluates human rights frameworks and philosophies from the position of a heterodox institutional labor economist. He is to be commended for taking up this task and wading through the complexity of these questions.

This book can be grouped with the work of other writers sympathetic to labor who have also taken issue with the notion that workers' rights are human rights. Nelson Lichtenstein, one of those scholars, has summarized the main concerns with rights discourse and the rights-based model of regulation. Rights as an organizing strategy, he argues, can often mean ineffective legal enforcement removed from the shop floor concerns of workers, a dependency on legal and technical experts, an incapacity to deal with broad structural economic and social crises, and a failure to challenge or even temper managerial prerogatives and authorities at the workplace. The author raises similar concerns from a heterodox institutional labor economics perspective and does not view human rights as a worthwhile endeavor in labor advocacy. His analysis is, however, tinged with ambivalence; one senses that even while building his case for divorcing human rights and worker rights, he would prefer to save the marriage if he could.

After two introductory chapters that familiarize the reader with heterodox economics (described as the “radical, feminist, institutional, Marxian, Austrian, post-Keynesian and ecological” schools of economics), the book's most original contribution and McIntyre's main arguments are found in

Chapters 3 and 4. In Chapter 3, the concepts of the sweating system and supply chain management are illustrated by way of three brief case studies, examining an Indonesian sub-contractor of Nike (as described in a labor report prepared by a team of graduate students from the Tuck School of Business at Dartmouth and critiqued by McIntyre), labor and community activism at a fish processing plant in Rhode Island where a temporary worker was killed on the job, and a contract campaign at Providence College by sub-contracted janitors working for the UNICCO services company. The book uses these three case studies to illustrate the difficulty in regulating a sweating system of sub-contracted labor that is a prime cause of declining labor standards.

McIntyre makes his central argument in Chapter 4, “Are Workers' Rights Human Rights (and does it matter if they are)?” “Recourse to the language of rights alone may not be any more successful than appeals to moral sympathy in promoting workers' well being,” he writes; “as worker rights advocates have adopted the language of human rights since the 1960s there has not been much discussion of how this language limits what they may be successful in achieving” (p. 55) He defends institutional labor economics as the best torchbearer of opposition to orthodox neoclassical economics and argues that “human rights are problematic as a basis for worker rights because they deal with what the individual is entitled to rather than what is in the interest of community, solidarity or civic virtue.” He concludes, “We have enough knowledge now of how the ‘rights revolution’ has affected the collective strength of workers in actually existing U.S. capitalism to be skeptical about this slogan” (p. 77).

The final four chapters are chattier and less a critique of human rights than a defense of the classic institutional labor economics paradigm to remedy The Labor Problem. Chapter 5 is a call to strengthen the ILO; Chapter 6 recounts the history of the U.S. failure to ratify ILO conventions; Chapter 7 encourages a recommitment to factory labor inspectors and the “cross-class alliances” they are able to forge; and Chapter 8 concludes the book with a restatement of McIntyre's main reservations about the philosophically conjectural and sloganeering “workers' rights as human rights” mantra.

I appreciate Richard McIntyre's work because just by jumping into this debate he serves to enrich the discourse and expand the discursive

space for human rights within the heterodox and institutional labor economics fields. One glaring defect, however, runs throughout this book: human rights and what a human rights philosophy means for society are addressed and conceptualized so superficially that neither like-minded nor dissenting readers will have much to go on. McIntyre gives little history of the philosophical debates surrounding the modern human rights movement. The book casts universal human rights within an exclusively individualist predisposition; the fundamental and even radical social obligations they place upon nation-states are largely ignored.

Given the legal world's tendency to see human rights as exclusively individual rights claims, there is a need within this book but also generally across the social sciences for a clear articulation of the social formula of human rights. This is especially important for workers' rights, which have historically derived their protection through collective means. The Cold War claim that economic and social rights are secondary to civil and political rights no longer stands. Human rights advocates and scholars have spent a generation trying to move beyond this false, misleading dichotomy. Human rights are not exclusively individual legal claims. At their foundation, human rights constitute a new philosophy of the obligations of government within society and economic life.

Lost in this debate is the concept, now recognized by the Inter-American Court of Human Rights, that workers' rights can often be realized only when underlying "double transgressions"—layered rights violations—are addressed. This approach holds private actors like corporations accountable but equally charges the nation-state with wrongdoing where public policy maintains an unequal socio-economic order that exacerbates rights violations and hinders their effective remedy. This integrated conception of human rights justiciability is not new. It comes from Article 29 of the Universal Declaration of Human Rights, which explains that each category of human rights exists in relation to others. Subsequent human rights declarations have elaborated this point, arguing it is the first responsibility of all governments to protect human rights, and universal human rights are not separate and distinct but indivisible, interdependent, and interrelated. In the words of Simone Weil, these are not the rights of "the men of 1789."

Adoption of a like definition and understanding of human rights in this book might have resulted in conclusions quite different from those McIntyre reaches. The central critique might in that case have turned to institutional labor economics

itself, which arguably has a bleak track record in protecting workers' rights. The renewal of classic institutional labor economics and its balancing imperatives and voluntarist negotiation of labor protections brings us no closer to solving The Labor Problem. What is needed is a new labor institutionalism consistent with the human rights philosophy and its role for government in combating inequality and protecting the rights of workers.

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### Labor Economics

*Staircases or Treadmills? Labor Market Intermediaries and Economic Opportunity in a Changing Economy.* By Chris Beener, Laura Leet, and Manuel Pastor. New York: Russell Sage Foundation, 2007. 312 pp. ISBN 978-0-87154-169-7, \$32.50 (cloth).

This volume is a comprehensive study of how different labor market intermediaries (LMIs) work. The authors broadly define an LMI as any institution that intervenes in the matching between firms and workers. This includes a vast array of organizations ranging from private sector temporary help agencies to head hunters, public sector agencies, trade unions, and community colleges. The project the authors undertake is correspondingly ambitious: rather than restrict themselves to the study of one particular type of LMI, as has been done in most of the literature (the most commonly studied type being temporary help agencies), they try to shed light on how all of these different intermediaries between firms and workers operate.

In the first part of the book, Beener, Leet, and Pastor provide a detailed description, based on field research and conversations with focus groups, of how the different types of LMIs work, and develop a compelling analytical framework to analyze how this very diverse set of organizations can facilitate or improve the matching between workers and firms. They categorize and discuss the roles of intermediaries as providing services to support either *market-meeting* (facilitating the basic job-matching process), *market-molding* (favorably influencing individual characteristics such as training and networking), or *market-making* (serving as the employer of record following placement, for example). I found this section to be one of the most interesting in the book. It succeeds in