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Frankfurt School Perspectives on Globalization, Democracy, and the Law

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provides possibly the most direct and interesting extension of the two-faces analysis by proposing the existence of a third, “facilitation” face: unions, he argues, serve to enhance individual workers’ awareness of and access to benefits. This is a particularly insightful extension of the *WDUD* two-faces analysis because it shows a way to connect the collective institution of unions with an increasingly individualized world of employment relations in which access to individual employment rights and benefits is a top priority for workers.

Finally, a few of the authors criticize the Freeman and Medoff perspective for being too accepting of the traditional neo-classical economic perspective on unions and especially for accepting the monopoly analysis of unions’ impact on labor markets. Notable in this group are Kaufman’s analysis of how the insights of the early institutionalists could inform current perspectives on labor unions and Mitchell and Erickson’s fascinating analysis, based on a monopsonistic model of the labor market, of unions’ macro-economic impact. Both of these chapters take on the standard competitive labor market model that Freeman and Medoff accepted as the source of the negative monopolistic face of unions in *WDUD*. One can argue about whether they are right or not, but Mitchell and Erickson have come up with one of the most interesting alternative analyses of labor markets in many years. One of the limitations of industrial relations theory has always been its lack of theoretical model development. Here, however, is a neatly developed alternative model that could provide a valuable addition to future industrial relations texts and a useful starting point for much future research on labor and employment relations.

The most important limitation of this volume is its disciplinary narrowness: it is primarily a description and analysis by economists of economic research on unions. There are some exceptions, such as Lewin’s interesting chapter on dispute resolution and Hammer and Avgar’s chapter on unions and job satisfaction, which draws on psychological theory and research. However, the primary focus of the volume is on economic research, reflecting Freeman and Medoff’s own disciplinary orientation. As a result, there is limited attention to the contributions of research from other disciplines on labor unions. This emphasis may be no favor to organized labor. Labor’s enthusiastic embrace of *WDUD*—and, implicitly, its acceptance of the prevalent thinking of the academic discipline of economics as a key arbiter of its own legitimacy—was, after all, a gamble. That the gamble may have been unwise is suggested by Hirsch’s chapter in this volume, which strongly challenges one of

Freeman and Medoff’s most noteworthy claims, namely, that unions enhance productivity despite their negative impact on profits. Hirsch finds that post-*WDUD* empirical studies have shown, on the contrary, a union productivity effect of close to zero. Although Freeman in his response chapter raises some counter-arguments, it is worth asking what the policy implications would be if Hirsch is correct. To the degree that the labor movement has accepted the economic-centric arguments from *WDUD* as a key premise for its legitimacy, would the absence of a productivity-enhancing union effect undermine support for unions and for labor law reforms supporting the right to organize?

Overall, however, this volume reconfirms the importance and vast impact of *WDUD* over two decades after its publication. Although some of Freeman and Medoff’s findings and arguments are challenged by the assembled authors, many more are reconfirmed. Equally importantly, *WDUD* continues to inspire research and set the agenda for much current thinking about labor unions. Paradoxically, even as the American labor movement has declined in strength, the analysis in *WDUD* has continued to resonate powerfully.

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Labor and Employment Law

Frankfurt School Perspectives on Globalization, Democracy, and the Law. By William E. Scheuerman. New York: Routledge, 2008. 222 pp. ISBN 978-0-415-70183-9, \$120.00 (cloth).

This book’s perspective on globalization and what it portends for workplace justice through law is informed not only by William Scheuerman’s own general analyses of relevant social changes, but also by the work of two eminent scholars: Franz Neumann, a critical theorist and original member of the Frankfurt School of Sociology, which became known for its holistic and unapologetically normative brand of social science; and Jürgen Habermas, a present-day social philosopher in the tradition of the same school, who has written on facts and norms in law based on his own discourse theory of democracy. A discussion of both writers and their perspectives is the core of this book. More useful, however, in my view, is the author’s descriptive material on globalization and its effects, particularly on labor law and labor rights.

In general, effective law tends to be fair, (relatively) simple, and enforceable. Consistent with that principle, Scheuerman distinguishes between clear, public, relatively general modes of legal regulation and ambiguous, private, relatively informal legal mechanisms. Thus he criticizes voluntary rules of conduct proposed by multinational corporations as being typically vague and open-ended, with enforcement procedures that are feeble or even nonexistent. He makes the same criticism of World Trade Organization dispute resolution devices that are filled with exceptions, grandfather clauses, waivers, and balance-of-payment exceptions. At the same time, he admits that the speed of current social change and the unforgiving nature of modern competitive processes make multinational corporations leery about controls that interfere with their freedom to maneuver in this business environment.

The author notes that in the cases of international business arbitration, business taxation, finance and banking regulations, and GATT (the General Agreement on Tariffs and Trade, used to reduce tariff barriers, which eventually resulted in the World Trade Organization), big businesses largely get to police themselves, often with a great deal of secrecy. Multinational corporations are taxed, he observes, not in conformity with clear, simple, rigorously enforced legal regulation, but based on their negotiations with government officials. International banking regulates itself by informal "best practices" rather than government-backed law (especially international law). Concerning enforcement by the International Monetary Fund (IMF) of sanctions against debtor nations, he writes, "Depending on the economic and political importance of a country and the character and prospects of its government, individual justice is parceled out by the IMF either with severity or generosity" (p. 38). Moreover, he argues, international economic organizations, particularly the World Trade Organization, encourage protection of politically strategic industries, with the result that their rules foster oligopolistic tendencies.

Scheuerman levels similar criticisms at failed attempts to enforce international labor standards. He does not believe that American side-agreements with Mexico and Canada that are coordinated with the North American Free Trade Agreement (NAFTA) are very effective. While dispute resolution under NAFTA is relatively efficient and speedy when purely business matters are at issue—one example being the submission of certain complaints to a three-person tribunal one of whose members is chosen by the firm, so that in some matters states and corporations are treated as

equals—for labor issues the dispute procedure is clumsy and opaque, likely to take years to wend its way through a series of committees and panels. The WTO is not a good venue for defending labor standards, because it is organized to reflect the weight of powerful states against weak states, all justified by the neo-liberal economic ideology at its heart. The International Labor Organization (ILO) has a better track record in defending transnational labor rights and standards, but the United States has not, to date, shown much interest in ratifying the labor standards promulgated by the ILO, possibly because organized labor has the same number of votes in the ILO's decision-making structure as business representatives. In general, Scheuerman's argument is that "when the rules of the game are vague or unclear, or when they fail to provide 'fair warning' by allowing for a multitude of inconsistent interpretations, oftentimes it is those possessing the greatest de facto economic and political power who gain" (p. 49).

Both Neumann and Habermas oppose interest-group politics that favor the powerful over the weak, big business over consumers, capital over labor, and traditional "thoughtless" moralism over modern "empathetic" moral sensitivity to the problems of others. Both therefore decry the loss of community and of traditional values once rooted in conceptions of natural law based on religion. Toward preserving and defending those goods, Neumann emphasizes the protections of liberal legal proceduralism; Habermas, the rebuilding of community the way modern university-educated intellectuals approach such tasks, through debate and social intercourse.

Habermas hopes that administrative proceedings can institutionalize democratic input by establishing ombudsmen, administrative hearings, and client participation in administrative bodies. Habermas admits, however, that the prospects for effective action of this kind are complicated by recent developments. A decline of faith in the self-regulating marketplace has spurred the expansion of government functions, and because legislation enabling the needed oversight has had to be open-ended in order to free up administrative agencies for their continuous monitoring and interventions into the life of society, the division of labor between the judicial, legislative, and executive functions has blurred; as a result, jurisdiction is increasingly in question. Even putting aside such qualification, the practical value of Habermas's recommendations, as Scheuerman himself recognizes, is limited by their lack of detail. Much the same may be said of Neumann's writing on the subject. Thus, to the extent that this book borrows from the ideas of Neumann

and Habermas, it remains a work stronger in its theory than in its practical recommendations.

Scheurman concludes by discussing the ideas of Habermas and others relating to transnational government. He advocates strengthening the European Union, the United Nations, and, perhaps, other transnational enforcers of “human rights.”

Scheurman writes, “Grassroots activists are legitimately demanding participation by NGOs and labor groups in the halls of the WTO and IMF and many other powerful interstate organizations that play significant roles in overseeing the global political economy” (p. 150). He believes such reforms are preferable to their more extreme alternatives on the left and on the right. “They may, in short, help us steer a path between the Charybdis of conservative political resignation and Scylla of unrealistic radicalism that has plagued too much recent Frankfurt School critical theory work on globalization” (p. 151). When, as in this case, Scheurman dares to state his own ideas and not merely defer to those of other political philosophers, he actually provides an opening for the kind of pragmatic critical theory that is so needed on the world stage today.

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Human Resources, Management, and Personnel

The Changing Face of Medicine: Women Doctors and the Evolution of Health Care in America. By Ann K. Boulis and Jerry A. Jacobs. Ithaca, N.Y.: ILR Press (an imprint of Cornell University Press), 2008. 280 pp. ISBN 978-0-8014-4446-3, \$35.00 (cloth).

In 2009, half of all newly minted physicians will be female; in 1969 that figure was fewer than one in ten. In their detailed, data-driven portrait of the dramatic rise of women in medicine, Ann Boulis and Jerry Jacobs do an excellent job of explaining both the reasons for the trend toward numerical equality among physicians and its key consequences. They argue that women entered medicine primarily because broad barriers were lifted—not, as others have suggested, because women were more willing than men to accept (or contributed to) occupational status decline. In addition, as practicing physicians, women differ little from men in their overall patterns of care, and as future leaders of the profession they are unlikely

to exhibit much difference in leadership style.

In the nine chapters of *The Changing Face of Medicine*, Boulis and Jacobs take on a large and formidably complex topic. What makes their task all the more daunting—and their achievement therefore all the more impressive—is that during the same Nixon-to-Obama time span marking women’s entrance to the profession, medicine and health care as a whole *also* changed dramatically. Thus, their story has more moving parts than most. To handle this complexity, Boulis and Jacobs analyze data from a range of available sources, including general population surveys and specialized surveys of physicians. They also summarize relevant studies from a diverse range of academic communities, including the social science disciplines, applied health policy and management fields, and medical research proper. Finally, they use selected quotes from *MomMD*, a popular online forum, and a collection of their own interviews and focus groups, to illustrate points and inject the ever-articulate and often lively voices of physicians themselves into the narrative. This research is all brought together in a manner that is organized and quite accessible, and that I suspect will make the book valuable to a broad swath of scholars, policy-makers, and practitioners. Despite having a bookcase full of biographies of famous women physicians, and a smaller number of historical and ethnographic works on women in medicine (such as Lorber’s *Women in Medicine* and More’s *Restoring the Balance*), I know of no other text that marshals the evidence as *The Changing Face of Medicine* does. Readers will surely appreciate Boulis and Jacobs’s even-handed treatment, which acknowledges support for competing explanations when they find it.

The first three chapters focus on the question of why women’s numbers grew in the ranks of medical school graduates starting in the 1970s. Drawing on historical data, the authors observe that male applications declined only slightly, and that the real action was a massive surge in female applications and admittances. This increase reflected contemporaneous rising trends in girls’ education and interest in science. By triangulating across multiple data sources, Boulis and Jacobs argue that the best explanation for women entering medicine lies with the broader advance of women in schooling, the work force, and society (and not a competing hypothesis that the profession of medicine began declining in attractiveness, leading men to shun it and sparking a downward spiral of feminization and further devaluation).

Chapters 4–6 shift gears and grapple with the experiences of women once they enter medicine: how different are they from men in their choice of