

Labor, Inequality, and Human Rights: Local Manifestations of Global Challenges

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Description:

This interdisciplinary session will consider how the global movement of people, capital and goods troubles labor rights, using a close analysis of a variety of local contexts. Legal scholars, sociologists, and anthropologists will present research on the role of law and regulation in both producing and responding to inequalities in power and precarity between owners and workers, and among different classes of workers. In sites ranging from France, Taiwan, the U.K., Turkey, and Thailand, the papers explore a number of different legal frameworks that affect labor rights, directly and indirectly. In addition to labor and human rights law, those frameworks include immigration law, criminal law, insurance law, property law, and investment law.

Primary Keyword:

Labor and Employment

Secondary Keyword:

Papers

Illegal Working, Migrants and Labour Exploitation in the UK: The Immigration Act 2016

The UK's Immigration Act 2016 is an assemblage of carceral elements targeting illegal working by migrants and their employers, and regulatory elements designed to enforce labour market regulation. This combination of immigration, criminal and labour law raises questions about how the UK government has framed the issue of labour exploitation. This paper adopts a constructivist socio-legal approach in order to appreciate how making 'illegal working' a crime figures in a specific governance project. Situating the Immigration Act 2016 within the broader political economy of neo-liberal globalization, it develops a productive account of migrant illegality to which it adds a conception of liminal legality that emphasizes both the agency of actors and the gap between legality and legitimacy. Using official documents, it shows how the Immigration Act 2016 is a response to a specific governance crisis, which is to maintain the 'British way' of regulating the labour market despite deteriorating outcomes for many workers.

Presenter

Judy Fudge
Kent Law School, University of Kent (UK)

Implementing Labor Rights for Home-based Workers in Thailand: Challenges and Possibilities

Work increasingly occurs in global and local value chains. One of the gravest problems associated with these value chains is how to regulate the work of the most peripheral and vulnerable workers at the bottom of the chains who work in their homes or in small sweatshops. In 2010, the National Assembly of Thailand approved the Homeworkers Protection Act, B.E. 2553 ("the Act") which extends a set of labour protections to home-based workers, including fair and equal remuneration for work, as well as fundamental workplace safety guarantees. At the time, the Act was a considerable victory for campaigners who had fought for legislative protection for informal homeworkers for over a decade. However, in the seven years since its passage, the Act has not been widely implemented, and enforcement of its terms is severely lacking. This paper adopts a socio-legal approach to exploring the challenges and possibilities of implementing the Act, drawing upon the authors' action research undertaken in Thailand in collaboration with local Thai researchers, the ILO, and the Thai Department of Labor Protection and Welfare. It presents an analysis of the legal ordering and political economy of the global supply chains within which informal Thai homeworkers toil, focusing on three key industries: fishing nets, wigs, and garment production. In evaluating the distribution of power within these supply chains, the authors identify points of leverage to secure more effective implementation of the Act.

Presenter

Kate Taylor
University of Texas at Austin School of Law

Non-Presenting Co-Author

Shelley Marshall
RMIT

Fault and Prejudice: Industrial Disease, Amoral Regulation and the Limits of Compensatory Justice

Should someone be held responsible for injury or disease which occurs in the workplace? And is this responsibility only about money? Workers' compensation systems have been developed throughout the industrialized world in the late nineteenth century and early twentieth centuries to address the issue of industrial disease and accidents. These are amoral, "no fault" schemes that have been justified by various principles: 1) risk is a necessary byproduct of work; 2) the locus of responsibility cannot be determined in modern complex work environments; 3) these issues should not be dealt with by criminal justice; 4) compensation systems are convenient and fair for injured workers; 5) according to a more recent neoliberal argument, these schemes favor economic efficiency. Drawing on contemporary ethnographic studies carried out in France (glassworkers) and Taiwan (electronics workers), we study the experience of sick and injured workers as they deal with compensation systems and civil courts. We show that the amorality of these schemes contrasts with the sense of injustice moving the victims when they discover that they have been knowingly exposed to avoidable hazards. Even though compensation schemes are oft presented to victims as equivalent to justice, we show that far from closing the request for justice, they can reinforce the workers' sense of injustice because of their cold and technical, almost inhumane aspect.

Presenter

Pascal Marichalar
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The Return of Neo-Liberalism and South American Labour Laws: Old Wine in a New Bottle

In the 2000s, a wave of progressive candidates won elections in South America. The victories of Néstor Kirchner in 2003 and Cristina de Kirchner in 2007 and 2011 in Argentina, and of Luís Inácio Lula da Silva in 2002 and 2006 and Dilma Rousseff in 2010 and 2014 symbolized the rejection of neoliberal governments that were in power in the 1990s in both countries. This also had an impact upon labor regulations. However, after more than a decade of center-left governments in office, South America has turned (back) to neoliberal governments. In Argentina, Mauricio Macri won the presidential election in 2015, and in Brazil, Michel Temer took office in 2016 after a contentious impeachment proceeding of Dilma Rousseff. Although 'neoliberal reforms failed to produce the expected outcomes' in the past, there is a renewed appetite in the region in order to attempt 'new' neoliberal reforms. Employment growth was weak, the average urban unemployment rate rose and the informal sector grew.

In 2017, Brazil has implemented one of the biggest labor law reforms in the past decades. Following the traditional tenets of neoliberal policies, this new reform aims to make labor regulations more flexible. In the same vein, the current Argentinian government has implemented some minor labor law reforms, which suggests the change of policy approach. It has also sent three bills to the Senate, which has laid the foundations for the reform of the labor regulatory framework. These bills aim to make labor regulations more flexible, to strengthen labor training and foster youth employment, as well as prioritize the use of administrative bodies in order to govern workplace accidents claims. Furthermore, the recent Argentinian government's request of financial aid to the IMF may have an impact on labor regulations.

Although these reforms have adopted a similar tenor than those implemented in the 1970s/1990s, a question arises: is the scope/approach of these 'new' regulations similar to the previous reforms or do they go further in make the labor market more? In order to answer these questions, firstly, this paper briefly explores the main features of 'neoliberalism' in the sub-region. Secondly, this paper succinctly develops a historical evolution of Argentinian and Brazilian labor law. Thirdly, this paper analyzes how neoliberalism has influenced upon labor market regulations in both countries. Finally, a brief introduction of progressive labor law from a Southern perspective is introduced.

Presenter

Renan Bernardi Kalil, University of Sao Paulo

Co-Presenter

Mauro Pucheta, University of Gloucestershire