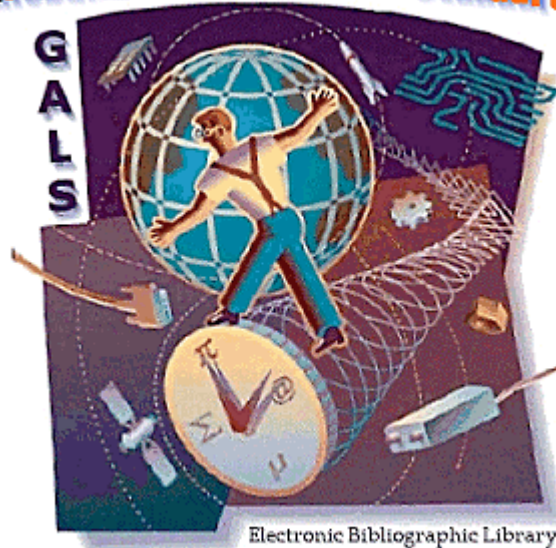


Globalization and Labor Standards



GALS Newsletter

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Short Takes

German Unions Agree to Contract for Temporary Workers

In 2003, German lawmakers loosened restrictions on the hiring of temporary workers. Pro-business groups claim that the flexibility inherent in hiring temporary workers allowed Germany to weather the 2009 economic downturn, while trade unionists argue that low wages and unfair conditions have lowered salaries for all workers and created an economic underclass.

Temporary workers in Germany are often non-citizens who are recruited to fill low wage positions. Often, these workers pay high recruitment fees to employment agencies, who sometimes seize wages until the recruitment debt is repaid. The employment agencies have been accused of misleading workers and pressuring them to sign contracts they cannot read. As a result, the temporary workers' actual wages are often lower than advertized, and far less than the prevailing industry wage. Moreover, their contracts range from a few days to many months, meaning that employers can hire temporary workers as a cheap and enduring alternative to a permanent workforce.

German unions have struggled against the rise of precarious work since regulations were revised a decade ago. Efforts to make temporary work contracts illegal stalled, as did attempts to enforce judicial decisions.

In September of this year, DGB, a coalition of German trade unions, signed a contract with two employment agencies. The agreement will raise the monthly wage for temporary workers: West German temporary workers will receive a 9.6% aggregate raise, while East German temporary workers will receive a 12.8% aggregate raise. The agreement also prohibits the use of temporary workers as strikebreakers, and limits the duration of temporary contracts.

Some critics on the left have pointed to the contract's low base wage as a potential problem. Germany has no universal minimum wage, and has instead instituted minimum wages industry-by-industry. These critics fear that the signing of this agreement, just weeks before a national election and in the midst of a national debate implementing a minimum wage, could either deprioritize the wage debate or depress the eventually-enacted minimum wage.

Unionists concede that this contract is only a first step toward equalizing conditions between permanent and temporary workers. Whatever the effect on the ongoing minimum wage debate, it is likely that the agreement's increase in wages and limits on contract length will benefit temporary workers in Germany, and will likely provide a template for other nations who face a rise in precarious employment.

--Nayla Wren, UCLA Law 2014

Immigration and Workers' Rights

Joseph D. Layne, "Fighting a Losing Battle: IRCA'S Negative Impact on Law Abiding Employers", *Loyola of Los Angeles Law Review*, v. 44 (Summer 2011) p. 1431

The author argues that the passage of the 1986 Immigration Reform and Control Act ("IRCA") has created incentives for employers to hire and exploit undocumented workers. The IRCA made it illegal to hire undocumented workers to work in the US without documentation, and shifted the responsibility for compliance to the employer. Employers face sanctions for knowingly hiring undocumented workers, but these sanctions are too weak to deter unscrupulous practices, particularly in the wake of the Supreme Court's decision in *Hoffman Plastics v. NLRB*, in which the Court held that undocumented workers cannot receive backpay when their employer violates

the National Labor Relations Act (“NLRA”). The author shows that an employer who violates the IRCA by hiring undocumented workers, and violates the NLRA by interfering with their right to unionize will save thousands of dollars per employee over an employer who hires citizen workers and remains neutral to collective bargaining efforts. The author recommends that Congress repeal the IRCA and reinstate the full range of NLRA remedies for undocumented workers.

Subjects: [Immigration](#), [Collective Bargaining](#),
[Labor Mobility](#), [United States](#)

Full-text links: || [WESTLAW](#)

Women’s Rights

Riggin, Jessica, “Note: The Potential Impact of CEDAW Ratification on U.S. Employment Discrimination Law: Lessons From Canada”, *Columbia Human Rights Law Review*, v.42 (Winter, 2011) p.541

Abstract:

The author uses Canada as a case study to analyze how ratification of the Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW”) would affect employment in the United States. Four of CEDAW’s provisions directly address employment law: the first is focused on equal employment opportunity, the second on equal pay, the third on non-discrimination and accommodation on the basis of pregnancy , and the last on sexual harassment. The author chooses Canada as a case study because it has employment civil right laws and an economy that parallels those of the United States. On the positive side, the author finds that CEDAW’s treatment of pregnancy benefits and equal pay as human rights, as well as the CEDAW committee’s requests for empirical analyses of Canada’s progress, have pushed Canadian legislators to enforce applicable civil rights laws and encouraged employers to self-police. However, she also finds that the lack of a private right of action on equal employment opportunity and substandard enforcement of existing laws has hampered equal employment and anti-harassment measures. The author concludes that if the U.S. were to sign CEDAW, the effect would likely be similar, as the effectiveness of the treaty largely depends on each state’s willingness to implement CEDAW’s goals.

Subjects: [Women’s’ Rights](#), [Country-Specific Case Studies](#), [Employment Law](#)

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Flexibilization

Sharmila Rudrappa, “Cyber-Coolies and Techno-Braceros: Race and Commodification of Indian Information Technology Guest Workers in the United States” *University of San Francisco Law Review*, v.44 (Fall, 2009) p.353

Abstract:

The author argues that U.S. guest worker programs, known also as H-2 and H1-B temporary work visa programs, commodify and often exploit the labor of primarily non-white foreign workers. The author recounts the history of non-citizen workers in the U.S. and finds a contradiction: though the majority of labor law and policy clearly proscribes the commodification of labor, foreign workers' labor has been, and continues to be, treated as a commodity that can be imported or exported at will. The author identifies several respects in which treating foreign workers' labor in this way benefits capital to the detriment of both native and foreign workers. First, guest workers are generally not part of established bargaining units, and weaken unions and depress wages. Second, since H-2 and H-1B workers' immigration status is tied to their employment, they are less likely to organize, strike, or demand better working conditions. Third, countries receiving foreign workers do not need to provide the costs associated with producing and maintaining a permanent labor force, such the cost of training workers and the cost of unemployment benefits. The author argues that the result of U.S. immigration policies is to create a racialized, non-white underclass whose laboring bodies are disposable and whose humanity is denied.

Subjects: [Flexibilization](#), [Immigration](#), [Labor Mobility](#)

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Links to Related Projects

The International Labour Organization's (ILO) Informal Economy Resource Database:
<http://www.ilo.org/dyn/infoecon/iebrowse.home>

The Informal Economy Resource Database contains a myriad of ILO activities, research or tools directly or indirectly related to the informal economy and decent work. This source is a "living" and dynamic inventory of information on labour issues relating to the informal economy, such as access to finance, data and statistics, employment, gender equality, policy, rights, social protection and working conditions. It is a valuable tool for anyone undertaking research or working on labour issues and the informal economy.

International Labour Organization's (ILO) Conditions of Work and Employment Laws
<http://www.ilo.org/travdatabase>

The Program maintains a Database of Conditions of Work and Employment Laws, which provides information on laws from around the world. The database covers measures on minimum wages, working hours and holidays, and maternity protection and provides information on around 130 countries from all regions.

Asian Law Center: <http://www.law.unimelb.edu.au/alc/bibliography/browse.asp?s=45>

The Asian Law Centre, an initiative of the University of Melbourne Law School, devoted to the development of understanding of Asian law, offers an extensive bibliography of Asian labor law

articles and reports.

Centre for Employment and Labour Relations Law: <http://www.law.unimelb.edu.au/celrl/>

Centre for Employment and Labour Relations Law is a research and teaching center devoted to the development of an understanding of labor law at the University of Melbourne. The Center's website describes the activities of the Center and contains links to several databases that are of interest to labor law scholars and practitioners. For example, the Center's Work Relations Law Project contains extensive information about Australian labor law that can be accessed directly at <http://www.austlii.edu.au/au/special/industrial/>.

ETUI Labourline: <http://www.labourline.org/Etui>

ETUI Labourline is a database of European labor information resources covering European, international and comparative aspects of industrial relations and health and safety issues, developed by the Documentation Centres of the European Trade Union Institute and the European Trade Union Institute for Health and Safety(Brussels). The consolidated bibliographic database contains more than 20,000 references to documents focusing on industrial relations, and more than 15,000 references to documents on health and safety issues.

Globalization Bulletin: <http://www.rci.rutgers.edu/~dbensman/bulletin.html>

The Globalization Bulletin is a weekly e-newsletter providing linked access to the latest articles, research, and web resources on a range of global labor issues—ranging from union organizing and labor markets to immigrations and trade agreements. The Bulletin is produced by the Globalization Task Force of the New Jersey Division of the United Nations Association-USA and the Department of Labor Studies and Employment Relations School of Management and Labor Relations, Rutgers University. To subscribe, email David Bensman at dbensman@smlr.rutgers.edu.

International Social Security and Workers Compensation Journal:

<http://www.business.curtin.edu.au/business/research/journals/international-journal-of-social-security-and-workers-compensation>

The International Social Security and Workers Compensation Journal is an on-line journal that focuses on international scholarship in the areas of social security, workers compensation, and occupational health, and disability support. It is published by the School of Business Law, Curtin Institute of Technology in Perth Australia. The IJSSWC contains inter-disciplinary articles in fields such as law, occupational medicine, health economics, and disability studies.

Labor and Global Change Database: <http://www.ilir.umich.edu/lagn/>

The Labor and Global Change Database provides bibliographies, citation information and (where available) web links to the full text of research exploring connections between labor and globalization. The database aims to provide researchers with an easy means to make the results of their work widely available to other scholars and the interested public. The database is run by and continually updated by the Labor and Global Change Program of the University of

Michigan.

LabourWeb: <http://www.lex.unict.it/eurolabor/en/>

The Labour Web is a comprehensive documentation center for information about European labor law, social law, industrial relations and the welfare state. It contains up-to-date versions of European Union law, directives, pending directives, EU news, press releases, economic statistics and decisions of the European Court of Justice. It also contains a Working Papers series and subject matter reports (dossiers) on issues concerning European integration. The site also provides links to other websites that contain working papers, statistical reports, and other information about social, economic and industrial relations affairs in the European context. It is run by the Massimo D'Antona Centre for the Study of European Labour Law, at the Faculty of Law of the University of Catania.

The Marco Biagi Centre for International and Comparative Studies:

<http://www.csmb.unimo.it>

The Marco Biagi Centre for International and Comparative Studies at the University of Modena and Reggio Emilia, Italy, functions as policy resource center on comparative labor issues. Besides publishing books and law journals, the Center provides a clearinghouse of international law journals, including the International Journal of Comparative Labour Law and Industrial Relations (<http://www.csmb.unimo.it/journal.html>). Currently only in Italian, the Center's website will soon offer an English version.

Trade Unions and Labor Relations Database:

http://www.polsoz.fu-berlin.de/polwiss/db_unions

The database, produced by the Center of Labor Relations of the Otto-Suhr-Institute of the Freie University Berlin, contains over 7,000 citations of books, articles, working papers, brochures, proceedings, etc. The bulk of the citations address aspects of labor relations in Germany and the EU, but there is a substantial body of literature in the database covering global labor issues as well.

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