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'Missing in Action': The Right to Strike in the Baltic New Member States – an Absent EU Competence

Daiva Petrylaitė, Charles Woolfson

Abstract: This paper explores a neglected aspect of legislative reform, the right to strike, in the post-communist new EU Member States of Estonia, Latvia and Lithuania. It suggests a tension, on the one hand, between the endorsement of free collective bargaining as integral to post-communist democratic transformation, and on the other hand, domestic exigencies, as perceived by business and political elites, for social peace and the necessary disempowerment of labour as an independent actor. During the past decade and a half of capitalist transformation there has been ambivalence about the desirable scope of the exercise of the right to strike. It is paradoxical in this area of collective labour relations, reflecting most precisely the balance of power between labour and capital, that the European Union lacks legislative competence, despite the declared endorsement of the fundamental right to withdraw labour.

Collective Contracts in the Shenzhen Special Economic Zone in China

Anna Tsui, Anne Carver

Abstract: This paper reports on case studies in the electronics and telecommunications industry of the Shenzhen Special Economic Zone in China to examine the characteristics of collective consultation and contracts, and industrial relations in this emerging labour market. Under the label of 'market socialism', the system displays specifically Chinese characteristics. Mostly confined to large state-sector and some large foreign enterprises, collective consultation uses a consensual approach with a presumption of equal status between the parties. The resulting collective contracts consist of general, standard terms and conditions that include minimum requirements provided by laws and regulations. While the role of trade unions remains ambiguous in the state sector and some large foreign companies, the smaller foreign and private enterprises are hostile to trade unions and collective contracts. Workplace industrial relations are neither pluralistic nor tripartite. It is argued that the hybrid blending of capitalist and socialist institutions is associated with continued government control and the integration of official trade unions into management, effectively preventing collective consultation or bargaining from regulating industrial relations.

Corporatism and Self-regulation in the Dutch (Agricultural) Economy Statutory Trade Organisations: Ideology, Law and Practice since 1930

J. Tymen van der Ploeg

Abstract: This paper argues, with reference to the Dutch economy and society, that legal mechanisms governing the powers of government and non-governmental organisations in the statutory organisation of industry (generally referred to in Dutch as PBO-boards) can provide an adequate balance of power without detriment to the legitimacy of representative government.

Access to Justice, Trade Union Rights, and the Indian Industrial Disputes Act, 1947

Ramapriya Gopalakrishnan, Lisa Tortell

Abstract: This article examines section 10(1) of the Indian Industrial Disputes Act, 1947, whereby individual 'workmen' and their trade unions require a governmental decision to refer a particular grievance to adjudication before they are entitled to have the matter heard by a court or tribunal. Following a description of the legislative, judicial and international context, and an assessment of various justifications for the existence of the requirement, the article argues for an amendment to the Act, to ensure that workers and trade unions enjoy the same rights to access justice as other individuals in India.

"The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws".

Harmonising European Working Time in an Enlarged EU: A Case of Failed 'Humanisation'?

Stephen Hardy

Abstract: The adoption of the Working Time Directive in 1993 by the European Union sought to signal the end of exclusive regulation at national level and promote a new era of European working time organisation. This paper examines the Directive's implementation in the various EU Member States' labour markets. Based on examination of pre-existing provisions and practices, it will be suggested that due to the extremely low working time standards that the Directive sets, its declared aim to pursue 'humanising factors' in EU social policy by combating the negative effects on health and safety of excessively long-working hours has failed. Instead, its main corollary has been the permission of wide-ranging flexibilisation in working time organisation through the insertion of derogations and exclusions tailored to the needs of EU employers. Deficiencies in national implementation will be highlighted and the role of the Directive as a means of setting standardised working time will be emphasised. Finally, leading cases brought before the European Court of Justice and national courts, which provide significant clarification of several terms in the Directive, will be examined, shedding light on how the proposed revised Directive might impact on current working practices in the divergent enlarged EU.

The Changing Structure and Contents of the Employer's Legal Responsibility for Health and Safety at Work in Post-Industrial Systems

Pietro Ichino

Abstract: This paper aims to outline the main changes in the nature of the employer's legal responsibility for health and safety at work in the transition from industrial to the post-industrial systems, with an extension of the area of application of health and safety protection beyond the boundaries of salaried employment. It is argued that in post-industrial systems the productivity gap between one employee and another can be far greater than in industrial systems. As a result the psychological aspects of the employment relationship take on more and more importance, with work-related depressive disorders and harassment in the workplace becoming increasingly

significant issues, giving rise to the need to examine the employer's responsibility for preventive measures.

Protection of Women Employees before and after Childbirth in Turkish Employment Law

Kadriye Bakirci

Abstract: Turkey has recently been undergoing a period in which the laws have been changing rapidly to adapt legislation to European Union (EU) directives and International Labour Organization (ILO) standards. In this respect, the Employment Act, No. 4857/2003, attempted to introduce provisions parallel to EU regulations on the protection of women employees who are pregnant, have just given birth or are breastfeeding. However, not only are there problems in the provisions of the Employment Act, but also in the situation of many women employees who are not covered by the Act and are subject to outdated legislation not complying with EU and international standards. In this paper, the situation of employees who are pregnant or have just given birth and are breastfeeding is analysed from a critical point of view, and possible solutions are proposed.