

The Core Principle and Fundamental Theorem of Industrial Relations

Bruce E. Kaufman

Abstract: This paper describes the original paradigm of industrial relations, as developed in the United States in the early part of the twentieth century. The original paradigm had three faces: science-building, problem-solving, and ethical/ideological. It is argued that the core principle that spans and unites these three faces is rejection of the orthodox economic model of a competitive labour market. This proposition may also be stated as rejection of the proposition that labour is a commodity. Building on this core principle is the fundamental theorem of industrial relations. It states that a free-market capitalist economic system cannot survive and efficiently perform without the practices and institutions of industrial relations that humanize, stabilize, professionalize, democratize and balance the employment relationship.

Industrial Relocation and Labour Relations: The Case of Central and Eastern Europe

José Pastore

Abstract: Industrial relocation is one of the main concerns of industrial relations practitioners, policy-makers, union leaders and researchers in general. For many companies the critical choice is no longer between producing at home or abroad, but rather between cutting costs or losing market share. One of the ways to increase competitiveness is to move east. By facilitating company relocation, the Central and Eastern European countries are guaranteeing the future of companies facing competition problems in Germany, France, Italy, and other European countries. But relocation often involves the loss of jobs in the country of origin and job creation in the countries of destination as well as many changes in the industrial relations practices of both sides. This paper focuses on the impact of the integration of eight ex-communist countries in the European Union in 2004. Data for 2004-2006 show that differences in terms of salaries and working conditions are related to changes in the industrial relations systems of Western Europe on the one hand and Central and Eastern Europe on the other. The eastern countries are growing fast, but a high rate of unemployment has led to frustration and dissatisfaction in most of the new Member States. In the Western countries, to avoid further company relocation to the eastern countries, pressure has been exerted on employees to make deep concessions in terms of salaries, bonuses, working time and other labour conditions. The paper explores the future prospects for these developments, as well as their repercussions for other emerging nations.

The Rights of Illegal Workers Injured at Work - a Study of the Judicial Dilemma in the United States

Robert Guthrie and Rebecca Taseff

Abstract: The engagement of “non-citizens”, “aliens”, and “undocumented workers” for work raises a number of delicate employment law and policy issues. This paper considers the attitude of

the courts in the United States (US) to the question of the rights of workers who work contrary to immigration laws (illegal workers) and will focus on the recent case law in relation to workers compensation entitlements. In the US the case law on the rights of illegal workers to workers compensation is unclear and heavily dependent upon local State legislation and judicial attitudes. It has also been heavily influenced by the Supreme Court decision of *Hoffman Plastic Compounds v. National Labor Relations Board*, which dealt with the rights of undocumented workers to make claims for wages consequent upon unfair termination of the employment contract. This paper explores the different judicial and legislative approaches to the rights of illegal workers to workers' compensation, and proposes a possible humanitarian response to the difficult problem of the injured illegal worker.

De-Skilled and Devalued: The Labour Market Experience of Polish Migrants in the UK Following EU Enlargement

Samantha Currie

Abstract: The UK is one of a minority of older European Union Member States that chose not to restrict the ability of nationals from the eight Central and Eastern European countries, which acceded to the EU in 2004, from accessing its labour market. Relying on extracts from qualitative interviews with Polish migrants, this article reflects on the experience of post-accession EU8 migrant workers in the UK. In particular, it examines how UK law on the registration of migrant workers from the accession countries, and EU law on the recognition of qualifications, may be contributing to the initial occurrence of de-skilling whereby migrants' skills and education are devalued in the host society. It seems that the emphasis in the UK placed on the 'usefulness' of such EU8 workers may be diverting attention from the occurrence of 'brain waste'.

In Defence of (Efficiently Administered) "Just Cause" Dismissal Laws

Guy Davidov

Abstract: This article provides justifications for "just cause" laws that are constantly under attack in many European countries, while arguing that in some cases amendments might be necessary to ensure the possibility of swift, inexpensive dismissals when a just cause indeed exists. The security provided to employees by "just cause" laws is justified on two main grounds: preventing unnecessary injuries to the social/psychological well-being of workers who depend on a particular relationship for such purposes; and ensuring a fair "price" in terms of security in return for workers' submission to a democratically deficient regime. A number of considerations to the contrary – the impact on "outsiders", potential inefficiencies and the infringement on employers' autonomy – are discussed but shown to be rather insignificant in magnitude (with the exception of small employers who are indeed usually excluded from the scope of "just cause" laws).

The Transfer of Undertakings and the Importance of Taking Over Personnel – A Vicious Circle

Abstract: In this paper I contend that the EU Acquired Rights Directive, as interpreted by the European Court of Justice, has adverse consequences for the market for outsourcing services. The Court should change its position on the decisive importance of either taking over personnel or taking over intangible assets, since the emphasis on those two factors is ‘counterintuitive’ to the social partners. The resulting legal uncertainty leads to legislation that is not in keeping with general notions of market competition, as the British TUPE Draft Revised Regulations prove. Instead of focusing on the sector in which a transfer takes place, more emphasis should be placed on the economic context in which transfers take place, especially those resulting from a mere change of service provider.