The Right to Privacy and the Conceptualisation of the Person in the Workplace: A Comparative Examination of EU, US and Australian Approaches

Anne O'Rourke, Amanda Pyman and Julian Teicher

Abstract: This paper examines the emerging debate on workplace privacy regulation in Australia by reference to related developments in the United States, the United Kingdom and selected European countries. Exploring the theoretical underpinnings and practical outcomes of the different approaches, the authors argue that Australia should reject the market-friendly model exemplified by the United States approach and adopt the more comprehensive and integrated approach found in Europe.

Who's Info is it Anyway? Employees' Rights to Privacy and Protection of Personal Data in the Workplace

Shelley Wallach

Abstract: This article examines the problems and challenges arising from the protection of employees' rights to privacy in the workplace in the information society. The use of information and communications technology in the workplace that allows data to be collected, stored, retrieved and processed in vast quantities and at great speed presents significant new opportunities and at the same time new threats to employers and employees, raising many questions about areas where interests and rights are in conflict and clear boundaries have to be drawn. The article deals specifically with the application of the law to cases of computer surveillance at work and to the collection and processing of employees' personal data. An account is given of specific legal rules, where they exist, and general principles laid down in constitutions, treaties, international norms EU Directives, comparing, where relevant, the European and the U.S. approach to these matters. The article also points out the threats to employees' privacy and how to strike a balance between the rights, interests and expectations of the employer on the one hand with those of the employee on the other, with a view to protecting employee privacy as much as possible.

Contradictions in Chinese Trade Unionism

Jie Shen and Christopher Leggett

Abstract: This study examines the changing status and roles of the All China Federation of Trade Unions (ACFTU) in industrial disputes. It also examines unionization, union autonomy, workers' organizations and their governance and unions' prospects under the transitional economy. Although a consistency with past studies emerges from the findings, the extent and direction of change in Chinese industrial relations is revealed. It distinguishes trade unions at the enterprise from those at the higher level. Trade unions at the enterprise level are part of and represent the interests of the management of the enterprise. Trade unions at the higher level are subordinate to and part of the Party-state, and represent both workers and employers, acting as "messengers" and "mediators" in resolving labour disputes. Trade unions at enterprise level, as part of enterprise management, mediate between workers and management or suppress worker's actions in labour disputes.

Independent trade unions and collective bargaining appear to be unlikely to emerge in the near future of China in the current political framework.

Workers' Involvement in Health and Safety Management and Beyond: The UK Case

Victoria Howes

Abstract: It is generally agreed that employee involvement is a key element in effective health and safety management, since employees are in the best position to understand and appreciate the risks and hazards in their own environment. Some advantages include the development of a positive health and safety culture, building trust between employees and management, reducing the number of accidents and work-related illnesses and improving business efficiency. Different approaches to worker involvement have been adopted in the various European Member States. The EU legal framework, which requires employee involvement at work, does not specify any particular model of participation. Thus, it is not surprising that countries have adopted models that are the most suitable in the context of their historical, cultural, political and legal development. The paper considers and analyses the approaches to worker involvement adopted by the EU and UK, providing some examples from other Member States. It also examines the perspectives of this issue by UK employers, employees and regulators.

Legal Rights of Employees in the Event of Dismissal: The New Zealand Situation

Alan Geare

Abstract: Until 1973 employees in New Zealand had only common law protection against wrongful dismissal and this protection was both limited and of little value other than to senior managers. From 1973 to 1991 there was statutory protection for those employees who were union members, against "unjustified dismissal". From 1991 this statutory protection was amended to include all employees, including senior managers. At the same time the common law was changing to provide increased opportunities for damages. In 2000 the government removed all common law rights of action against wrongful dismissal, requiring all action to be made under statute.

Transfering Employment between the Public and Private Sectors in the United Kingdom: Acquired Rights and Revising TUPE

Kevin Williams, Nigel Johnson

Abstract: This paper analyses the reasons for the United Kingdom's long-delayed response to the European Union's Acquired Rights Directive. It assesses the British government's overdue updating of the domestic legislation in 2006 in line with the latest version of the Directive, attributing its dilatory response to a combination of technical legal difficulties and conflicting political objectives. The paper concentrates on the 'privatisation' of public services, explaining the most recent protection now available to workers whose jobs are out-sourced to the private or voluntary sector. Member States contemplating reform of their own regulatory regimes may find the British experience instructive.