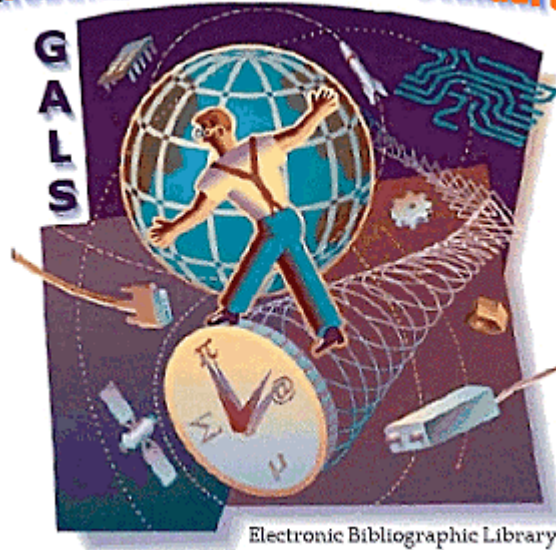


Globalization and Labor Standards



GALS Newsletter

June, 2013

Volume 12, No. 6

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Short Takes

Who Should Be Accountable for the Bangladesh Building Collapse?

In the recent collapse of a garment factory in Savar, Bangladesh, more than 1100 people were killed. The collapse was supposedly due to poor construction of the building and the vibration of electricity generators. The factory owner, Sohel Rana, was arrested and will be

prosecuted in Bangladesh. Many labor NGOs have called for imposing moral responsibility on Western clothing brands and have pressured them to pay financial compensation to families of the victims. The possibility of trade sanctions against Bangladesh have also been discussed. But one relevant option has not yet been fully aired: the possibility of holding Western companies that contract with unsafe factories legally liable for the damage suffered by the victims.

It is possible to impose legal responsibility on Western companies for unsafe conditions maintained by their supply chains. NGOs in several Western countries have initiated legal and semi-legal procedures, such as by filing a complaint with an OECD contact point. In Sweden, for example, a complaint was filed against electronics producer Electrolux for not complying with labor regulations in its Thai supply chain. Furthermore, in January 2012, a Dutch court ruled that Shell had breached its duty of care and was liable for the damages suffered by a farmer in Nigeria as a result of oil spills from Shell pipes. In the case of the disaster in Savar, it is conceivable that a procedure might be initiated by a group of victims or by an NGO.

The Bangladesh collapse illustrates the necessity of having a procedure to determine the accountability of Western companies whose production is located in low-wage countries like Bangladesh. Such a procedure would provide clarity to both industry and informed consumers. It would answer questions such as: What exactly can we expect from Western companies? How far should they go in the screening of their supply chain, especially if it is clear that audits only provide limited insight into those supply chains and they often consist of a huge number of links? If the supply chain costs human lives, should companies remove their production from the relevant factories, or should they stay and try to improve working conditions? In short: are Western companies (partly) responsible for the damages that workers suffer in low-wage countries?

NGOs in Europe and the United States have joined together to convince clothing companies to sign an accord with their Bangladeshi counterparts and various NGOs that would improve safety conditions in garment factories in Bangladesh. Whilst many European companies have signed this accord, American firms are hesitant. They fear, given the legal system in the U.S., such an accord result in legal liability should accidents occur despite the accord.

At the same time, several companies have chosen to remove production from Bangladesh and similar lowest-wage countries. However, an exodus of Western companies does not solve the problem of miserable working conditions that cost human lives, after all.

A procedure aimed at recovering damages would finally provide the necessary guidance in respect of the rights, duties and responsibilities of Western companies and their (mostly third world) trading partners. Such a procedure can clarify those obligations and prevent similar disasters in the long term.

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Forced Labor

Shamir, Hila, “A Labor Paradigm for Human Trafficking”, *UCLA Law Review*, v. 60 (October 2012) p. 76

Abstract:

Recent legislation addressing human trafficking, such as the US Trafficking Victims Protection Act of 2000 (TVPA) and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (Protocol), are framed to address the human rights of trafficking victims. The author argues that anti-trafficking statutes framed around human rights are of limited effectiveness because such statutes primarily focus on rehabilitating victims and punishing offenders. This focus is problematic for several reasons: first, the focus is necessarily limited to trafficking and not the breadth of labor exploitation, second, it gives redress only the most severe cases, third, by focusing on the most severe cases it normalizes less severe labor exploitation. The author argues calls for a paradigm shift: she suggests anti-trafficking measures be viewed from a labor framework. A labor framework would empower workers to combat exploitive treatment on their own, and would re-set the balance of power between labor and capital, thus removing the economic incentive in labor exploitation. The author describes five measures for implementing the labor approach: 1) prevent criminalization and deportation of trafficking victims, 2) eliminate binding, or status-dependant labor agreements, 3) reduce recruitment fees and the power of middlemen, 4) guarantee the right to unionize, 5) extend and enforce the application of labor and employment laws to all workers.

Subjects: [Forced Labor](#),
[Labor Rights as Human Rights](#),
[Labor Rights in General](#)

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

Industry-Specific Case Study: Domestic Work

McCann, Deirdre, “New Frontiers of Regulation: Domestic Work, Working Conditions, and the Holistic Assessment of Nonstandard Work Norms”, *Comparative Labor Law & Policy Journal* v. 34 (Fall 2012) p. 167

Abstract:

This paper discusses how unions in different countries can create a more equal economic order in the wake of the Great Recession. In the first half, the author describes the public policy basis for unionism: that labor is not a commodity and that economic equality can be achieved through collective bargaining. The author then describes neoliberalism, and argues that neoliberalism is fundamentally at odds with unionism because it treats labor as a commodity and sees labor relations as a zero-sum game between capital and labor. To win in a labor dispute, the prevailing party must be able to leverage their economic position against their opponent's. To illustrate this point, the author describes two strikes, one at a Motts Applesauce plant in New York State, and the other at four Honda plants in China. In China, the tight labor market and high demand for cars gave striking workers an economic advantage, while in New York, a low regional demand for labor and the manufacturer's product enabled the employer to withstand the strike and

ultimately prevail. From these case studies, the author determines that if unions are to maintain relevancy in the wake of the Great Recession, they must do so by influencing entire industries so that their leverage is not dependant on fluctuations in regional labor markets. Unions can do this by opposing globalization entirely or working to correct the aspects of globalization that are unfair. The author argues that unions also should organize entire employment sectors transnationally, and points to the success of the International Transport Workers' Federation and the United Auto Workers as examples of unions that are beginning to reach across national boundaries.

Subjects: [Industry-Specific Case Studies](#),
[International Labour Organization](#), [Social
& Economic Rights](#)

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

Forced Labor

Note, “Counteracting the Bias: The Department of Labor’s Unique Opportunity to Combat Human Trafficking”, *Harvard Law Review* v. 126 (February 2013) p. 1012

Abstract:

The author argues that efforts to combat human trafficking in the United States have been largely ineffective because officials view trafficking through an anti-prostitution frame. This is inappropriate because sex trafficking represents a small minority of human trafficking cases. The majority of trafficking in the United States is labor trafficking. The author begins by describing the negative effects of labor trafficking, which extend beyond harm to the trafficked individual. When labor trafficking is prevalent, entire employment sectors in the United States and abroad begin to see increased incidence of depressed wages, dangerous workplaces, and poor working conditions. Combating labor trafficking is especially difficult because, unlike victims of sex trafficking, victims of labor trafficking are often more difficult to identify as they often work ‘in plain sight’ at otherwise-legal service or manufacturing jobs. Further, efforts to combat labor trafficking are made more complicated by the departments that oversee immigration and sex trafficking enforcement: the Department of Homeland Security (DHS) and the Department of Justice (DOJ). Both departments often detain, investigate, and sometimes prosecute trafficking victims who have committed immigration and criminal offenses. These consequences have a chilling effect on victims who might otherwise report trafficking offenses. The author argues that the Department of Labor (DOL) has a unique opportunity to combat labor trafficking through the Wage and Hour Division, whose investigators have experience uncovering the exploitation of workers. Thus, unlike the DHS and the DOJ, who are obliged to prosecute victims who may also be in violation of immigration and criminal statutes, the DOL only has the authority to address worker exploitation. As a result, trafficked workers may be more likely to contact the DOL to report workplace abuses than they would be to contact other law enforcement authorities.

Subjects: [Forced Labor](#),
[Labor Rights as Human Rights](#),
[Undocumented Workers](#)

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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/celr/>

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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