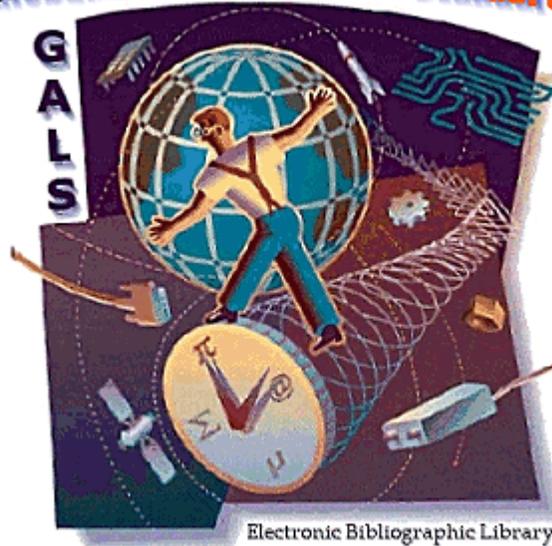


Globalization and Labor Standards



GALS Newsletter

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Short Takes

Brief updates on labor law developments In different parts of the world

On Wisconsin

On September 14, a Circuit Judge in Dane County, Wisconsin ruled that certain portions of the Wisconsin law known as “Act 10” was unconstitutional under the state and federal constitution. Act 10 is the controversial law passed by the Wisconsin legislature in the March, 2011, that practically stripped most of Wisconsin’s public sector workers of their rights to engage in collective bargaining. The law provided that Wisconsin public sector workers unions, except those deemed “public safety unions” could not bargain for wages above the rate of inflation, tied from bargaining on any other issues. The law also prohibited the state or municipalities from agreeing to a dues check-off, prohibited “fair sharing fees” whereby non-members paid for the services the unions provided them, and required public sector unions to be submit to a recertification vote every year.

Unions have challenged the law in both federal and state court. Last March, federal court ruling was a partial victory for the unions. There the unions had challenged the Act on Equal Protection grounds due to its differential treatment of general public sector workers; unions and public safety workers’ unions. The court found the distinction, as applied to collective bargaining rights, was rationally related to the reasonable goal of preventing strikes by public safety workers. On the other hand, the court found that there was no rational reason to make the distinction between the different types of unions when it came to the annual recertification requirement or the dues check-off. This decision is on appeal to the Seventh Circuit Court of Appeals.

The latest ruling stems from a state case was brought by unions representing municipal workers in Milwaukee and Madison. The plaintiffs claimed that the Act violated their free speech and association rights under the state and federal constitutions and equal protection under the federal constitution. The judge, Judge Juan B. Colas, reasoned that, though the state does not have to permit public sector employees to engage in collective bargaining at all, if it does so, it may not condition eligibility on the surrender or restriction of a constitutional right. The judge found that the statute imposed improper burdens on employees’ speech and associational rights. Because those rights are “fundamental,” the state had to show that it had a significant governmental interest in imposing them and that the burdens so imposed were closely tailored to effectuate that interest. The Act, he found, failed to meet the test.

The judge also found that the statute violated the Equal Protection clause in the federal Constitution. Because a “fundamental right” was involved, the court held that the Act had to satisfy the stringent requirements of “strict scrutiny” -- i.e., the state had to show it made distinctions that are related to the achievement a compelling state interest and that burdens it imposed were closely tailored to the accomplishment of that interest. On this test, the court found the statute failed.

Where does this recent ruling leave the Wisconsin collective bargaining law? As of now, its most important provisions have been ruled unconstitutional under state and federal law, at least for the municipal unions in Milwaukee and Madison. Lawyers are predicting more lawsuits by state unions and unions in different localities. But the state is appealing the ruling, and has asked for a stay of implementation of Judge Colas' ruling in the interim. Moreover, the federal lawsuit will be argued later this month, and it could also have an impact on the state case. So for now, in Wisconsin, the fight is far from over.

---- Katherine V.W. Stone, Arjay and Frances Miller Professor of Law, UCLA

Collective Bargaining

Heinecken, Lindy & Nell, Michelle, "Military Unions and the Right to Collective Bargaining: Insights from the South African Experience", *International Journal of Comparative Labour Law and Industrial Relations* v. 23 no3 (2007) p. 463 - 483

Abstract:

In many nations, particularly in Europe, civilian and military employment practices continue to converge. In these countries, whether soldiers should be granted labor rights is highly controversial. The author first examines the results of a sociological study on the military to determine why military leadership so vehemently opposes unionization. The author concludes that such opposition stems from two concerns. The first concern stems from ingrained attitudes of military leadership, who prefer to manage employee relationships from a classically unitarist perspective and who believe that unions pose a threat to the systems of order that allow the military to function cohesively. The second, and arguably more dangerous concern is that the military union's and the military leadership's goals may align in an agenda that is disfavored by the body politic. In such a case, the military union's independent political power may doubly empower the military, overpowering citizens' opposition. In a case study focusing on South Africa, a nation where military leadership has been obligated to bargain with a military union since 2007, the author finds that neither concern has arisen. Internal cohesion and morale have not been threatened, and in fact may have been improved, since the imposition of collective bargaining. Additionally, the military union and the military leadership have not aligned on any politically disfavored agendas, though the author notes that such a circumstance could very well arise. However, given the benefits of unionization to military employees in South Africa, the author concludes that the risks may be worth undertaking.

Subjects: [Collective Bargaining](#), [Country-Specific Case Studies](#)

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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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