



Universiteit
Leiden
The Netherlands

Perspectives on the regulation of working conditions in times of globalization

Hu, Q.

Citation

Hu, Q. (2018, June 28). *Perspectives on the regulation of working conditions in times of globalization*. Meijers-reeks. s.n., S.l. Retrieved from <https://hdl.handle.net/1887/63155>

Version: Not Applicable (or Unknown)

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/63155>

Note: To cite this publication please use the final published version (if applicable).

Cover Page



Universiteit Leiden



The following handle holds various files of this Leiden University dissertation:

<http://hdl.handle.net/1887/63155>

Author: Hu, Q.

Title: Perspectives on the regulation of working conditions in times of globalization

Issue Date: 2018-06-28

Summary

Perspectives on the Regulation of Working Conditions in Times of Globalization

Challenges & Obstacles Facing Regulatory Intervention

Labor law is facing unprecedented challenges, in terms of both its external and internal dimensions. This is the combined result of the vulnerabilities inherent to labor law and the advancement of globalization, which in recent decades has given rise to fundamental changes of global economic structure, management ideas, technologies, and capital-raising models.

Labor law is called into question on many levels. Firstly, the basic ideas and purposes of labor law have become obscured. Furthermore, it has become more complicated to determine the correctness of the methods employed by labor legislation. The worsening ambivalence in terms of the goals and means of labor law has inevitably resulted in an aggravation of the doubts surrounding the actual impact.

Working conditions are the essential elements of employment relationships and the main point that legal interventions have been seeking to mediate. It is no exaggeration to say that working conditions legislation is at the center of the current crisis where labor law is procrastinating and tending to vacillate. Hence this research focuses on the regulation of working conditions in times of globalization.

The research comprises five independent studies: a general discussion on the foundation and feasibility of regulating working conditions in globalization, followed by four parallel studies that deal with specific legislation in certain countries. These studies demonstrate the current multifarious practical difficulties for countries to legislate on domestic working conditions. By dissecting the situations in which divergent stances, defective mechanisms and practical straits are entangled, the crisis of labor legislation in times of globalization is concretized into specific problems while at the same time opportunities for change are revealed. Such an exploration is not a discursive one that collects together the debris of the current broken picture of global lawmaking on working conditions. Rather, a couple of questions continue to hover in the background throughout:

- 1) *what is the main dilemma facing the regulation of working conditions in times of globalization?*
- 2) *How effectively do policymakers react to the foregoing dilemma?*

To be specific, in the face of warnings from economists, tenable reasons are needed for regulating the labor market and workplaces in a globalized world. Chapter 2 is devoted to examining the vitality of working conditions law on three levels. Firstly, in answering the question of why regulations on working conditions should not be discarded, the author puts forward an explanation, conquering the vulnerabilities of the mainstream philosophical

justifications. Secondly, by referring to a wide range of economic studies, she points out the cursoriness of the standpoint that regulating working conditions is bound to backfire. Finally, it is put forward that an approach that places stress on the balance or coordination, rather than the prioritization, of economic efficiency and labor protection may enable working conditions legislation to remain viable in today's globalization.

Chapter 3 analyzes how the defective legislation on construction safety aggravates the ongoing labor shortage in China's construction sector, and also, in the legislative dimension, what reformative measures are likely to bring about fundamental improvements. Three levels of description in this chapter show, respectively, the impracticability of the main construction safety rules, the malfunctions of the Labor Contract Law and the regulations about work-related injury insurance, and the undermining of the responsibility system. It may be difficult to construct a more efficient legal framework right away, but immediate efforts can be made to address specific tough issues that are key to ameliorating China's construction safety performance and to decelerating the outflow of the construction workforce. This chapter identifies five reformative measures that should be taken.

Chapter 4 reflects on how appropriately the German Minimum Wage Act – the latest national minimum wage legislation within the EU – has been constructed so as to remedy the fading role of collective bargaining in wage setting and curb the increasing in-work poverty across the country. Based on identifying four fundamental parts of a minimum wage regime, it examines successively the corresponding provisions in the German law, with frequent comparisons with the legislation of several other member states. It is found that Germany has refrained from learning the positive legislative experiences of its EU counterparts, and has developed a minimum wage regime that is distinct in more than one aspect. Such a wage floor, however, loses efficiency and momentum before serving the original purposes of its own introduction.

Chapter 5 compares the models, underlying ideas, and results of Swedish and American legislation on parental leave. It is found that Sweden, where parental leave policy is characterized by generosity and flexibility, has achieved quite positive outcomes respecting economic growth and the employment of both genders. In stark contrast, the US has failed to acquire stronger competitiveness or higher employment rates, despite implementing a much less generous parental leave policy. The presupposed tradeoff between the level of parental benefits and economic performance has contradicted the empirical evidence so far. Paid parental leave is strongly demanded by American society, not only amongst employees but also amongst employers.

Concentrating on the experiences of Great Britain, Chapter 6 reflects on the possibility of coordinating the three channels of employee participation, for the purpose of balancing the dual goals of higher productivity and a stronger employee voice. The recent attempts seen in Great Britain to align representative and direct participation is indeed based on these two chan-

nels respectively possessing some attributes which enable them to complement each other. However, the picture is far from complete. The 'third channel' – financial participation – may further enhance the representative and direct participation, and itself will become more efficient when united with the other two channels. In theory, the three channels are likely to form a self-complementary system, but a practical difficulty is that they rarely coexist and overlap in practice because of the different levels of popularity.

Based on the above studies, it can be seen that for the regulation of working conditions, the main dilemma always rests in the tension between labor protection and the economic objectives of countries and enterprises, although the challenges facing legislation on working conditions take on a variety of appearances. This is a constant puzzle and also the origin of conflict of interest that are taken into account in working conditions legislation. However, many countries are actually failing to adopt adaptive strategies for regulating domestic working conditions in the era of globalization, mainly due to policymakers' improper perceptions of the relationship between labor protection and economic prosperity, and also because of some objective difficulties standing in the way of establishing effective rules. The author suggests that policymakers should get rid of the outdated stereotype that improving domestic working conditions and promoting the competitive power of the economy must be a zero-sum game. Despite the huge challenges brought about by the advancement of globalization, there is room for national legislators to apply appropriate rules and strategies in order to coordinate the goals of labor protection and economic development. When objective barriers exist that prohibit the law from responding effectively to the changing economic world, legislation should endeavor to guide the relevant social actors and create conditions to surmount these barriers.

