



**International Society for Labour and Social Security  
Law**  
**Société internationale de droit du travail et de la  
sécurité sociale**  
**Sociedad Internacional de Derecho del Trabajo y de la  
Seguridad Social**

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et Meilleurs Voeux pour  
2006

**Président/Président**

Clyde Summers  
3400 Chestnut Street  
Philadelphia, PA 19104  
USA  
E-mail: [csummers@law.upenn.edu](mailto:csummers@law.upenn.edu)

**Secretary General/Secrétaire général**

Arturo Bronstein  
c/ o Ms. Johanna Ruefli  
ILO – GENEVA  
SWITZERLAND  
e-mail : [asbronstein@msn.com](mailto:asbronstein@msn.com)  
and [sidtss@ilo.org](mailto:sidtss@ilo.org)

**Treasurer/Trésorière**

Irene Petronella ASSCHER-VONK  
Catholic University Nijmegen  
Th. Van Aquinostraat 6  
GHD NIJMEGEN NL-6526  
Netherlands  
E-mail: [I.Asscher@jur.kun.nl](mailto:I.Asscher@jur.kun.nl)

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Chers collègues

Nouvelles de la SIDTSS

## **1. Facilités accordées par le Directeur général du BIT pour le Secrétariat de la SIDTSS**

Je viens de quitter le BIT, le 30 novembre dernier. Cependant le Directeur général, M. Juan Somavia a décidé que le BIT continuerait à fournir un appui logistique à notre Société.

Veillez prendre note de nos nouveaux contacts:

SOCIETE INTERNATIONALE DE DROIT DU TRAVAIL ET DE LA SECURITE  
SOCIALE  
c/o Mme. Johanna Ruefli  
BIT  
1211 Genève 22  
Suisse

Le numéro de télécopieur ne change pas: +41 22 799 8749

Courriel:

[sidtss@ilo.org](mailto:sidtss@ilo.org)

ou

[asbronstein@msn.com](mailto:asbronstein@msn.com)

J'exprime tous mes remerciements au Directeur général, pour son appui à notre société. J'adresse aussi mes remerciements à Mme Johanna Walgrave et M. Giuseppe Casale, Directrice et Directeur adjoint respectivement du Département de dialogue social, législation, administration du travail et activités sectorielles du BIT, pour les facilités qu'ils ont accepté de nous fournir. Finalement, mais certainement pas en dernier lieu je dis un grand merci à Mme Johanna Ruefli, notre très efficace secrétaire.

## **2. VIII Congrès asien de droit du travail et de la sécurité sociale, Taipei, 1-3 Novembre 2005**

J'adresse toutes mes félicitations à notre ami Stephen Kang et toute son équipe pour le magnifique congrès qu'ils viennent de nous offrir à Taipei, du premier au 3 Novembre 2005.

Le congrès a été un grand succès. Il a compté avec la participation de plus de 300 collègues venant de 25 pays, d'Asie et d'ailleurs. Il a traité de trois thèmes principaux, a tenu un table ronde et organisé quatre ateliers pendant lesquels quelque 25 « contributions invitées » (invited papers) furent présentées par leurs auteurs.

La cérémonie d'ouverture a été honorée par son Excellence Chen Shui-bian, Président de Taïwan, qui a prononcé un discours. MM les professeurs Joseph S. Lee, président du comité organisateur, et Gordon Anderson, vice-président de notre Société en représentation de notre président Clyde Summers, qui n'a pu voyager à Taipei, ont ouvert le congrès. M le Professeur Kazuo Sugeno, président élu de notre société a été l'orateur invité de cette séance. Son discours, en anglais uniquement, est reproduit ci-dessous, comme annexe I. Je vous en recommande très vivement la lecture, qui présente un très grand intérêt comparatif.

Le congrès a été fermé par son Excellence Lee, Ying-Yuan, Ministre, Conseil des Affaires du Travail, Yuan Exécutif de Taiwan.

Les rapports et toutes les autres communications soumises au congrès sont disponibles dans la page web: <http://www.airroc.org.tw/ISLSSL2005/index.asp>

### **3. Mots d'ouverture au nom du Président Clyde Summers, à l'occasion du VIII Congrès européen de la SIDTSS, Bologne, septembre 2005**

En raison d'un problème de santé notre président Clyde Summers n'a pu assister à notre VIII Congrès régional européen, à Bologne. Ce fut notre collègue Alvin Goldman, président de notre chapitre US, qui nous a délivré un message dans lequel il a cherché à présenter la pensée juridique du professeur Summers. Il est reproduit ci-dessous, en anglais uniquement, comme annexe II.

### **4. Prochains congrès**

#### XVIII Congrès mondial, Paris, 5-8 Septembre 2006

J'ai reçu l'information suivante du comité organisateur:

Le site web: [www.laborlawparis.com](http://www.laborlawparis.com) est devenu opérationnel. L'inscription en ligne commencera en janvier 2006.

Voici le programme du congrès

#### Mardi 5 Septembre

09h30 / 12h30 Comité exécutif de la SIDTSS  
10h00 / 17h00 Réunions professionnelles  
16h00 Inscriptions  
18h00 Cérémonie d'ouverture  
19h30 Cocktail de bienvenue

#### Mercredi 6 Septembre

09h30 / 13h00 Session plénière

THÈME 1 : Libéralisation des échanges et droit du travail  
Rapporteur général : Lance COMPA (Etats-Unis)

Commentateurs : Luis LIZAMA PORTAL (Chili), Alain SUPIOT (France),  
C.KOLLONAY LEHOCZKY (Hongrie), Mme. Zheng (Chine)

14h30 / 18h00 Ateliers

#### Jeudi 7 Septembre

9h30 – 13h00 Session plénière

THÈME 2: Droit du travail (dans ses dimensions individuelles et collectives) et  
décentralisation productive

Co-rapporteurs généraux: Rafaële DE LUCA TAMAJO et Adalberto PERULLI (Italie)  
Commentateurs : Y. MIZUMACHI (Japon), Eduardo AMEGLIO (Uruguay), Manfred  
WEISS (Allemagne)

14h30 – 16h30 Ateliers

17h00 – 19h00 Table ronde : Quel avenir pour la loi en droit du travail ?

Modératrice : Catherine BARNARD (Royaume-Uni)

Participants : Ron MC CALLUN (Australie), Oscar HERNANDEZ ALVAREZ,  
(Venezuela), Michael LYNK (Canada), Hélène MASSE-DESSEN (France)

#### Vendredi 8 Septembre

09h30 – 13h00 Session plénière

THÈME 3 : Risques professionnels : Protection sociale et responsabilité de  
l'entreprise

Rapporteuses générales : Ann NUMHAUSER-HENNING (Suède) - Aminata CISSE  
(Sénégal)

Commentateur : Steve ADLER (Israël)

14h30 – 16h30 Ateliers

17h00 Clôture du congrès

17h30 – 18h30 Assemblée générale de la SIDTSS

Je remercie les rapporteurs nationaux qui m'ont envoyé leurs réponses aux  
questionnaires concernant les trois thèmes du congrès. A ce jour j'ai reçu les réponses  
suivantes :

Thème I: Argentine, Autriche, Bolivie, Brésil, Canada, Croatie, République  
dominicaine, Equateur, Etats-Unis, Finlande, Japon, Nouvelle Zélande,  
Pérou, Turquie, Royaume-Uni, Uruguay,

Thème II: Afrique du Sud, Argentine, Australie, Autriche, Canada, Costa Rica, Chili,  
Croatie, Espagne, Israël, Japon, Pays-Bas, Pérou, Suède, République  
Tchèque, Turquie, Royaume-Uni, Uruguay et Venezuela.

Thème III: Allemagne, Argentine, Autriche, Canada, République dominicaine,  
République Tchèque, Turquie, Venezuela et Uruguay.

## Ateliers

Les après-midi quatre ateliers bilingues se dérouleront en parallèle, portant sur les thèmes du congrès, comme suit: un atelier Anglais/ Français, un atelier Anglais Allemand, un atelier Espagnol/Anglais et un atelier Français/Espagnol

Des ateliers professionnels auront lieu lors du jour de l'inauguration (5 septembre), ils sont adressés aux juges du travail, administrateurs du travail et autres professionnels du droit du travail.

## Soumission de communications

Une annonce sera faite ultérieurement.

## Droits d'inscription

Le comité organisateur a fixé les droits d'inscription comme suit:

	Jusqu'au 31 mai 2006	Après le 31 mai 2006
Participants	360 euros	420 euros
Accompagnateurs/trices	180 euros	240 euros
Etudiant(e)s	240 euros	300 euros

Les boursiers de la SIDTSS n'auront pas à payer des droits d'inscription. Je ferais un appel de candidatures pour des bourses de notre société dans mon bulletin de mars 2006.

J'ai demandé au professeur Lyon-Caen de considérer la situation de nos collègues venant de pays à monnaie faible, en raison du montant des droits d'inscription, trop élevés pour eux. Je dois rencontrer le comité organisateur en début du mois de janvier 2006. Je compte avoir d'autres nouvelles à vous annoncer dans mon prochain bulletin.

## Voyage et logement

Air France va proposer des tarifs spéciaux pour le congrès.

Le Comité organisateur propose trois niveaux de tarif pour le logement, comme suit: € 230/300 pour des hôtels quatre étoiles, € 140/160 pour de s hôtels trois étoiles et € 100 pour des hôtels deux étoiles. D'autres informations paraîtront en temps voulu dans le site web du congrès.

## Programme social

Un cocktail de bienvenue sera offert à la Sorbonne le soir de l'ouverture du congrès. D'autres événements seront annoncés plus tard.

Contacts et information:

Association française de Droit du Travail:  
courriel: [18thcongress@labourlawparis.com](mailto:18thcongress@labourlawparis.com)

Inscriptions, secrétariat, programme social, logistique

SDT VOYAGE ET PRIVILÈGE - PARIS.  
Télécopieur : +33 1 44 43 94 01  
courriel : [logistic@labourlawparis.com](mailto:logistic@labourlawparis.com)

## VII congrès américain, 2007

Le professeur Salcedo Camacho m'informe qu'un comité organisateur a été constitué, sous la présidence de Rafael Albuquerque, vice-président de la République dominicaine. Il propose de tenir le congrès dans la dernière semaine d'octobre ou la première semaine de novembre 2007, à Santiago de los Caballeros, qui est la deuxième ville du pays, dans la région centrale. J'ai aussi reçu quelques propositions sur l'ordre du jour et ai commencé à entreprendre des consultations avec notre comité exécutif. J'espère pouvoir vous annoncer d'autres nouvelles dans mon prochain bulletin.

## IX Congrès régional européen, 2008

Le Comité exécutif a décidé que le congrès se tiendra à Freiburg, Allemagne. Notre chapitre allemand vient de me faire les propositions suivantes :

La structure classique de nos congrès européen (trois thèmes, deux tables rondes et deux ateliers) sera maintenue. Quant aux thèmes, voici les propositions :

- I. La réalisation du principe de l'égalité de traitement dans l'emploi et l'occupation dans les états membres de l'Union européenne.
- II. Position juridique et protection des travailleurs migrants (y compris les migrants en situation irrégulière et leur statut vis à vis la sécurité sociale)
- III. L'âge: l'impact de l'évolution démographique en Europe (le thème traitera des questions relatives aux pensions de la sécurité sociale, les pensions d'entreprise et les pensions privées, ainsi que la situation spéciale dans les entreprises multinationales).

Table ronde I: Le thème sera proposé par notre section espagnole.

Table ronde II: Les technologies de l'information et la communication et le droit du travail.

Atelier 1: Systèmes d'application de la loi en droit du travail

Atelier 2: Qualification and continuous training of legal assistance in labour law (je ne peux encore vous fournir une traduction en anglais car je dois clarifier le contenu de ce thème avec le comité organisateur)

Séminaire international de droit du travail, relations professionnelles et sécurité sociale comparés, Bordeaux, France.

Le Professeur Philippe Auvergnon me confirme que la prochaine édition de ce séminaire aura lieu du 3 au 13 juillet 2005. Son thème général est "Genre et droit social". J'en reviendrais avec plus de détails dans mon prochain bulletin, en mars 2006.

## 5. Questions financières

Notre Trésorière, professeure Irène Asscher-Vonk m'a envoyé le dernier état financier de notre société. Je remercie les membres suivants, qui ont déjà payé leurs cotisations pour 2005: Afrique du Sud, Allemagne, Argentine, Autriche, Bolivie, République Tchèque, République dominicaine, Finlande, Honduras, Japon, Pays-Bas, Panama, Pérou, Slovénie, Uruguay et Venezuela.

J'ai envoyé un rappel à tous les autres membres qui n'ont pas encore payé pour 2005. Certains d'entre eux n'ont pas payé pour 2004 non plus. A la suite d'une décision de notre comité exécutif, le nom des membres en retard de leurs cotisations sera rendu public dans mon prochain bulletin.

## 6. Nouvelles de nos membres

### Argentine

Nouveau comité exécutif de la Asociación Argentina de Derecho del Trabajo y de la Seguridad Social, AADTySS.

Président:	Jorge RODRÍGUEZ MANCINI
Vice-présidente:	Noemí RIAL
Secrétaire:	Ana Alejandra BARILARO
Secrétaire adjoint:	Diego TOSCA
Trésorier:	José RODRIGUEZ PONTE
Tres. adjoint:	Juan Carlos MARIANI

Membres titulaires:	Jorge BERMUDEZ Carlos Alberto ETALA Carlos MARÍN Alberto RIMOLDI
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Adjoints:	Gloria LLANA Graciela GIANELLA
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Vérificateurs des comptes:

Jorge GARCIA RAPP  
Mario ACKERMAN  
Pablo TOPET

Davantage d'informations sont disponibles dans le site web de l'AADTySS :  
[www.asociacion.org.ar](http://www.asociacion.org.ar)

Je félicite le Professeur Mario Ackerman pour sa récente désignation en tant que membre de la Commission d'experts en application des conventions et recommandations de l'OIT.

### Etats Unis

Le professeur Matthew Finkin, General Editor éditeur du très prestigieux Comparative Labor Law & Policy Journal propose un abonnement à cette publication à tous les membres individuels de nos associations nationales dans des conditions très favorables, soit us\$18 par an. Ceux et celles qui veulent profiter de cette offre peuvent s'abonner en ligne à l'adresse suivante : <http://www.law.uiuc.edu/publications/cll&pj/subscribe.html>

## Uruguay

Nouveaux contacts du professeur Oscar Ermida Uriarte, Président de la Asociación Uruguaya de Derecho del Trabajo y de la Seguridad Social, AUDTSS

Profesor Oscar Ermida Uriarte  
Facultad de Derecho, Escuela de Posgrados  
Colonia 1801  
Montevideo  
tel. +598 2 4065190 ext. 201  
e-mail: [ermida@adinet.com.uy](mailto:ermida@adinet.com.uy)  
[oeu@fder.edu.uy](mailto:oeu@fder.edu.uy)

### 7. Livres reçus

Jean-Michel Servais, *International Labour Law*, Kluwer Law International, 2005. Cette publication a déjà paru en français, éditée par LGDJ. Elle vient d'être traduite et publiée également en anglais. Elle est disponible à travers du site web d'Aspen Publishers: <http://www.aspenpublishers.com>

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Meilleures salutations

Arturo Bronstein  
Secrétaire général



## ANNEXE I

### CHANGING INDUSTRIAL RELATIONS AND LABOR LAW: ASIAN ECONOMIES UNDER GLOBALIZATION

Keynote speech by Professor Kazuo Sugeno, President Elect of ISL&SSL at the opening ceremony of the VIII Asian Congress of Labour and Social Security Law, Taipei, 1 – 3 November 2005.

First of all, I would like to congratulate the International Society for the successful opening of the Regional Congress in the great city of Taipei. It is a great honor for me to give a keynote address at such an occasion. Using the opportunity, I would like to give a little thought on "Changing Industrial Relations and Labor Law in the Globalizing Asian Economies."

From the perspectives of labor and social security law, the most distinctive feature of Asia seems to be its great diversity. Needless to say that the Asian and Pacific Region is composed of nations quite varied in their history, culture and social structure. In particular, we find a variety of areas with different stages of economic development. We have taking-off economies, developing economies, super-growth economies and mature economies. Labor markets and industrial relations are varied reflecting such socio-economic multiplicity, resulting in great diversity of labor law and social security systems.

However, there are common features among such membership economies with different appearances. To begin with, Asia is characterized with the economies rapidly growing (most notably Mainland China but also including some ASEAN countries). In such economies, we find radical expansion of urban and industrial areas and a large-scale movement of workers therein from farming areas. The governments are struggling with major social problems caused by such industrialization, and making efforts to establish labor market services to cope with frictional unemployment. They are also endeavoring to institutionalize labor law systems to secure wage payment, to establish workplace safety and health and to compensate for industrial accidents. In the economies almost taking off, we find the governments' serious efforts to establish infrastructures for development including some of the most basic systems of labor markets and social security (Indonesia, the Philippines). On the other hand, in the mature economies threatened by global and regional competition (Japan, Korea, Australia and Taiwan), we find the governments' efforts to restructure their conventional economic systems such as adversarial (Korea), centralized (Australia) or individualizing (Japan) industrial relations. In particular, we find the drives to deregulate the labor markets or to make industrial relations more cooperative (Korea) or decentralized (Australia).

Regardless of developing or developed economies, privatization of state owned enterprises is a movement commonly promoted in all types of economies (Japan, Australia, Thailand and Taiwan). The increase of workers in atypical employment is also a common trend in the Region with the common attempt of labor law reforms balancing protection and flexibility (Korea, Japan). Also found in many economies of the region are the aging of the population and the efforts to establish or reform pension and medical systems. Likewise, how to utilize and control immigration and emigration is a common policy issue throughout the region as workers move from less-developed to more-developed economies.

Having an overview of major features in the Asian and Pacific region, we are able to delineate a common factor that has a strong impact on the formation and reformation of labor law and social security systems in the region. That is, of course, globalization; or much freer and speedier flows of capital, goods, human resources and information across

the free-trade market having expanded to a global scale. In such an era, competition arises in a much larger scale and in a much speedier manner, and local economies are connected with distant regional economies regardless of national boundaries. The Asian Currency Crisis having taken place in 1997 is a typical example of the devastating effect the cross-border shift of short-term capital can generate. Another example of problems occurring in the global economy is large-scale relocation of production sites from higher- to lower-wage economies.

In this way, without regard to the state of development, most economies in the region are under the strong influence of the global economy. Rapid growth and staggering growth; large scale changes in industrial structures; and increasing inefficiencies of traditional economic systems; all are major economic features closely related with globalization. Growing instability of employment, expanding atypical employment, polarization of workers, increasing labor disputes and enhanced cross-border mobility of labor forces are the problems of industrial relations arising in such globalizing economies. Establishment or reestablishment of job security, more effective labor market services, balancing regulation and deregulation of labor markets, more efficient labor dispute resolution, more comprehensive and less costly pensions and medical services are the major agenda of reforms necessitated in industrial relations under pressures of globalization.

As a more concrete picture, I would like to take up the case of Japan, and give a brief description of the impact of globalization on her industrial relations and labor law.

A major characteristic of the Japanese case is that the national economy met the pressures of globalization and the bursting of economic bubble at the same time in the beginning of the 1990's. As an aftermath of the bubble, huge amounts of bad loans paralyzed the financial system, causing many enterprises to fall into serious trouble. Additional pressures of competition from developing Asian regions made firms resort to large-scale employment adjustment and restructuring, resulting in an unprecedented surge of unemployment. Japan thus experienced an economic slump for a decade from mid nineties. Such difficulties made the public recognize the importance of transforming their post-World-War-II systems to regain strength in the global market. These years were, therefore, marked with large-scale reforms in the conventional political, administrative, economic and judicial systems. The lead concept was "Structural Reform," which was introduced in the 1995 Economic Plan, as signifying reformation of the regulatory environment "from pre-entry regulation to rule-based governance, of the market." "Structural Reform" also meant the reform to transfer many of the regulatory responsibilities from the bureaucracy to the judiciary. Thus the government carried out large scale Judicial Reform in the beginning of this century; to strengthen the legal profession in size and quality; to make judicial procedures more expeditious and accessible; and to introduce the participation of citizens in the court procedure.

In the aspect of industrial relations during such a period, Japan experienced major changes such as the following:

The first is the change in the employment system. The long term employment system (or the employment system relying on the internal labor market) has been modified in a manner so as to emphasize short term performance and utilize more mid-careers. Also, the ratio of part-time and other atypical workers has grown from about 20 to 30 percent during the decade long economic slump. Moreover, as typically seen in the increasing number of foreign-capital owned firms, the mobile employment system relying on the external labor market has become a distinctive model of employment systems. The long-term employment system has become a less dominant model in Japanese industrial relations.

The second is the waning density and influence of unions. Union memberships among the total workforce have been steadily decreasing in the last two decades, with the organization rate coming down to a little less than twenty percent. The period after the collapse of the bubble economy is also marked with staggering and even lower wages. The unions' Spring Wage Offensive has lost its power of coordinating enterprise-based wage-negotiations within and across industries. The restructuring of enterprises seems to be progressing without much resistance from unions. The miserable defeat, in the national election of two months ago, of the Democratic Party supported by the All Japan Trade Union Federation (or Rengo) also seems to have highlighted their reduced political power.

The third is the drastic increase in labor disputes, not collective but individual ones.

The Japanese labor law system established after World War II attached the highest importance to collective bargaining disputes, for the resolution of which Labor Relations Commissions played important roles as expert agencies in dispute-prone industrial relations until the mid 1970's.

However, collective labor disputes decreased distinctively since the late 1970s as a consequence of the dissemination of cooperative labor management relations. On the other hand, since the early 1990's, the number of individual disputes in employment relations has increased sharply. For example, the number of civil litigation cases involving those relations tripled, over unpaid wages, termination of employment, disadvantageous alteration of working conditions, etc. The increase in worker grievances can be attributed mainly to the restructuring and downsizing of enterprises, which were pressed by intensifying competition in the global market and, in particular, from rising Asian economies. A second background is diversification and individualization of workers in the labor market, which have been precipitated by the needs of firms to make their workforce flexible and less costly.

The three kinds of changes mentioned above occurred in the process of industrial adaptation to global competition. They aroused concerns from labor policy perspectives, and gave rise to major reforms of labor law. The first of these reforms is the attained reform of the labor dispute resolution system and the second is the attempt at enacting a comprehensive Labor Contract Law.

With regard to the drastic increase in individual labor disputes, it became obvious that the collective-dispute oriented dispute-resolution system was in need of a major reform. Responding to such needs, the Ministry of Welfare and Labor established a system to provide counseling and mediation services with respect to such disputes at the local offices of the Ministry. Since the Ministry began such services in October 2001, the cases received by the Offices have been increasing rapidly. Then, Judicial Reform described above responded to the same needs, giving rise to a new Labor Tribunal Procedure in the district court.

Under this new Procedure, a tribunal composed of one career judge and two part-time experts in labor relations first makes mediation efforts towards a dispute of rights brought in by the parties of employment relations, and, if such efforts fail, renders a decision clarifying the merits of the case and specifying measures to resolve the case. The decision is not binding, and if either party objects, the case is automatically transferred to an ordinary civil procedure. The Law requires the tribunal to dispose of the case within three sessions, or within a few months' duration. Preparation is underway for the start of the new Procedure from next April.

In this way, the socioeconomic reforms to cope with globalization led to a major reform of Japanese labor law, i.e., construction of the new dispute resolution system. However, such a reform did not stop there but gave rise to another major agenda of labor policy

successively. It is the agenda to legislate a Labor Contract Law to clarify and modernize the rules governing employment relations.

The post World War II Reform led to the Labor Standards Law establishing minimum standards of working conditions with administrative scheme of inspection. However, the post-War reform did not create any special legislation to govern legal issues arising from employment relations such as management's rights to dismiss, transfer or discipline workers or the rules to alter working conditions. Those issues were entrusted to the rules on the Civil Code, the most basic rule of which was the freedom of both parties to terminate contractual relationships.

However, as the long-term employment system developed in the process of economic growth, the court modified the Civil Code rules to give effect to the practices of long-term employment. Most fundamentally, the court restricted the employer's right to dismiss employees by founding the doctrine of abusive dismissals. Many new rules then developed from this fundamental doctrine, the gist of which was to guarantee the rights of workers to stable employment and fair treatment, while endorsing the employers' authority to manage the internal labor market flexibly.

Such judge-made rules developed in the form of accumulated case law, which was difficult to comprehend for workers and entrepreneurs. As disputes arising from employment relations increased drastically, and as the new court system specializing in such disputes is commencing with the participation of lay judges, the necessity to clarify the rules governing employment relations became very clear. In addition, since the long-term employment system has undergone significant changes under the pressures of globalization, it became necessary to modernize rules concerning employment relationships in response to a new state of industrial relations.

Thus, a study group in the Ministry of Welfare and Labor presented, a month ago, a major Report proposing to enact a comprehensive Labor Contract Law. So far both labor and management reacted very strongly against the idea of the study group to introduce a new worker representation system in enterprises. Expressing concerns with the decline of union density, the study group proposed that if a committee composed of representatives of employees and management voluntarily set up in an unorganized firm reaches an agreement on alteration of working conditions, such agreed working conditions should be presumed fair and rational enough to bind individual workers objecting to such alteration. The union organizations criticize that special treatment of such enterprise committees would undermine the status of unions, and the business organizations anticipate that the new statutory system of employee representation might undermine the joint consultation procedures firmly established between enterprise unions and management. Thus, the proposal of the study group not only involves the attempt to modernize contractual rules on employment relations; it also encompasses the search for a new system of worker representation in the face of waning unionism. This is also an important issue of industrial relations under the impact of globalization.

This was a rough sketch of changing industrial relations and labor law in the Japanese economy under globalization. In short, the enterprise community based on the long time employment system is losing its cohesive control as workers become more mobile, diverse and insecure as a consequence of increased competition under globalization. Global competition also gave rise to pressures for establishing internationally common and visible rules and procedures to govern economic activities including labor relations. Community-based informal norms should be replaced by explicit rules and procedures, in harmony with international standards. The attained reform of labor dispute resolution system and the progressing reform of Labor Contract Law can be understood in this context.

From this perspective, it is a case of large-scale structural reforms having been promoted to cope with the challenges globalization has brought upon national industrial relations. This is relevant to a common theme of this 8th Asian Regional Congress, which is, I believe, to identify structural changes and policy issues in globalizing Asian economies. A fundamental question for us is whether and to what extent the diverse Asian labor law and social security systems will be standardized with the progress of globalization. We should also ask what should be the appropriate public policies in this era of globalization. It is a favorite joke of us lawyers that we always have a right answer on any complex issue of legal policies, but we keep it secret to maintain our jobs. I hope we do not take this kind of approach in this Congress and engage in candid arguments. I am looking forward to learning from fruitful discussions of the scholars in this hall.

Thank you very much for your kind attention.

## ANNEXE II

Address by Professor Alvin Goldman, on behalf of President Clyde Summers, at the opening ceremony of the VIII European Congress of ISL&SSL, Bologna, 20-23 September 2005

Dear colleagues and friends

A health problem encountered last month prevents Clyde Summers from joining us at this Congress. In consultation with his spouse, Evelyn Summers, and his two close colleagues and friends, Robert Gorman and Matthew Finkin, and guided by Clyde's wealth of publications, we offer, often using Clyde's own words, opening remarks that reflect the substance of the thoughts we think Professor Summers would want to share with you at this time.

We are gathered for a Congress that has been carefully planned by outstanding scholars to ensure intellectual stimulation and meaningful explorations of important subjects. Our program is enriched by the thoughtful, thorough, and energetic efforts of our excellent host committee. I know that all of you will want to join me in thanking them for their dedication and kindness and especially thank Franco Carinci for his devoted leadership in these efforts.

The International Society for Labor and Social Security Law most especially owes a continuing debt of gratitude to its outstanding Secretary-General, Arturo Bronstein. His attentiveness, intelligence and diplomatic skill guide our organization.

Over the course of the next several days we will be discussing how various legal systems attempt to resolve, or should resolve, important issues of employment, labor-management relations, and protection of social welfare. "Labor law, more than many other areas of law, is the product of conscious creation and social choice." Our basic laws often "were not the products of an evolutionary process, but were deliberately designed instruments of change."

Thus, as we examine the issues of the law of work covered by our Congress agenda, it will help to recognize that our subject involves not only questions of economic activity but also questions of human values, aspirations, and dignity. The situation of each worker is unique. As a result of the fortunes of genetic heritage, where and how they were raised, the education or training they did or did not receive, or the circumstances of the society in which they seek to perform work, some workers possess talents, strength, persistence or status that enable them to receive substantial rewards for their efforts; others do not. If the selected system of law is to accomplish the goal of doing justice, it not only should be impartially administered and provide meaningful remedies for breach of its rules, it also should give aid to the weaker party and ensure that those whose lives are affected will be heard with respect to the decisions under consideration.

The intellectual focal point of our organization and this Congress is the comparative method of exploration. "Most of us are bound by our unconscious premises and have difficulty envisioning what we have not seen. When we have known only one labor law system, we are captives of its purported premises and their claimed consequences. . . . The comparative perspective helps us to see through the myths of our own system, to uncover hidden premises on which we build, and to see more clearly the realities of our system and its special characteristics."

On the other hand, our "perspective of another labor law system is almost inescapably framed by the essential characteristics of our own system." Hence, we must try to

"recognize and make explicit those characteristics which frame our perspective . . . so that we do not confuse superficial similarities with functional equivalents." We also can expect to encounter times when foreigners will describe our own labor law system in ways that differ from our own perceptions. Instead of discarding such observations, one might heed the Scottish poet Robert Burns who, to paraphrase, counseled that it is a great gift to see ourselves as others see us.

Finally, the "similarities and contrasts" we encounter "should provoke us to ask 'why', and each question 'why' opens a door into a new and often unexpected room which itself has other doors to be opened by further questions. Though there is seemingly no end of doors, each one opened gives us fuller knowledge of the combination mansion and madhouse in which we live."

I wish you a successful and fruitful Congress