“Canada, Convention No. 155 and the Conundrum of Marketized Rights and Self-Regulation in Global Labor Standards”

A conference paper proposal
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This paper documents the relationship between Canada, Canadian labor policy and ILO standards-setting activity on occupational safety and health. It analyzes the incorporation of marketized labor rights and self-regulation within ILO Convention No. 155, the Occupational Safety and Health Convention of 1981. Using historical, archival, and legal research, this paper focuses on the protection of workers discriminated against for refusing to perform unsafe work. The right to refuse unsafe or hazardous work has since the 1970s been a central element in the Internal Responsibility System pioneered in Canada to police workplace safety and health. The right to refuse unsafe work was adopted in Article 13 of Convention 155, a treaty that is today ratified by fifty-six nations including China, Brazil, Russia, Mexico, Venezuela and Turkey.
When adopted in 1981, Convention No. 155 marked a new era and paradigm shift within ILO standards-setting. This new era was marked by a sharp move away from the setting of fixed universal human rights standards. Instead, flexibility in labor standards, the notion that “national contexts” supersede strong regulatory prescriptions, and the promotion of policies as a process were established as the framework of Convention 155. This move to self-regulation marketized the protection of labor rights that might otherwise have been constituted differently in a human rights standard on safety and health at work. This paper records the trends shaping ILO policy at the time including Canada’s unique contribution to this change of direction in standards-setting,