Counter-mobilization and Convention 155 on Safety, Health and the Working Environment

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Dissertation

Workers’ Ecology and the Right to Refuse Unsafe Work: A Study of Counter-mobilization in Global Labor and Human Rights Standards
A continuing human rights problem

- 2.3 million work-related fatalities annually
- 270 million non-fatal work-related accidents
- 160 million new cases of work-related disease
- 8th leading cause of death in U.S.
- The working environment, ecologic degradation
There is no viable human rights-based institutional analysis in labor scholarship

- Criticism of the human rights basis for labor
- Continuing legacy of institutional labor economics
- Problems in the current sociology of human rights
- Undeveloped human rights political analysis
Elements of a human rights-based analysis

1. Inherent human dignity logic
2. Social context / focus on effective rights
3. Rights-holder interest representation
Gaventa-Lukes analysis of power and exclusion

- Interest representation / exclusion
- Three dimensions of power
  1. Classic pluralistic decision-making
  2. Overt exclusion
  3. Latent exclusion
     a) Cultural control over political agenda to prevent resistance by identified opponents
     b) Shaping the cultural environment, i.e. values, beliefs, preferences, perceptions and cognitions
Gaventa-Lukes analysis of power and exclusion

Applied to human rights . . .

Interests of rights-holding social actors can be deduced from the institutional environment, the mobilization of bias, and the effectuation of rights frameworks.

Where rights-holders are not served by a labor rights framework, false consensus
Deducing false consensus

ALTERNATIVES
Identify a range of alternative interests, as expressed or unexpressed by rights-holders

OBSTACLES
How interests are prevented from being expressed, either structurally, culturally or both

CONSEQUENCES
How dominant interests expressed in policy impact a particular group of rights-holders
Research Methods

• Archival, document and library research
  • ILO archives, proceedings, reports, observations
  • Library and Archives Canada, Archives Ontario
  • Privately-held correspondence
• Interviews of policy experts
• Work refusal investigative reports
  • OSHA Section 11(c), 2003-2008 (350 cases)
  • Secondary research on Canadian refusal rights
  • Refusal rights reported to ILO General Survey
Research
Findings

• ILO refusal rights = a false consensus
  Narrow vision of the freedom of association
  Limited employment rights

• Cultural obstacles influenced C155

• Individual rights era disciplinary neo-liberalism, atomized, marketized employment rights
Convention (No. 155) concerning occupational safety and health and the working environment

Primary ILO convention on worker health and safety
Canadian Internal Responsibility System was a model
Rooted in a cultural framework laid in the 1970s
Contentious negotiations, adopted in 1981
56 ratifications today covering 2.3 billion people
Ratified by a number of major emerging powers like China, Brazil, Mexico, South Korea, Turkey, and Russia
Parties to Convention 155 (as of May 2010)
Counter-mobilization frame used by governments and employers in negotiating Convention 155

**GOVERNMENTS**
- Must respond to “present day realities”
- Fixed standards = “piecemeal approach”
- Convention must be a “total and coherent system of protection” for workers
- Must be a “far reaching” standard vs. narrow fixed standards
- “Practical measures” not “abstract philosophical criteria”

**EMPLOYERS**
- Employers / workers share a common interest
- Convention must focus on workplace level action
- Workers’ rights “dilute” and “erode” employer responsibility
- Must allow different national practices and enforcement arrangements
Origins of the counter-mobilization frame

• 1970s political counter-mobilization on workers’ environmental health and safety

• High-level agenda-setting policy inquiries
  – UK parliamentary committee, Robens Report, 1972
  – Ontario Royal Commission on Safety and Health in the Mines, Ham Commission Report, 1976
General Provisions
Convention 155 concerning occupational safety, health and the working environment

- Encourages national policies and practices without specifying universal standards
- Promotes no fixed labor standards
- National policies may pursue firm-level self-regulation
- Laissez-faire policies are acceptable national practices
The Right to Refuse
Convention 155 concerning occupational safety, health and the working environment

- The right to refuse is a non-associational, limited protection
- Protections are limited to an “imminent and serious danger” standard
- Requires worker to report to his or her “immediate supervisor” first
- Refusals may be protected in accordance with national conditions and practice
- Restricts workers’ freedom of association organizational activity
Implications

• Developing a human rights-based institutional analysis
• Expanding workers’ freedom of association
• Moving from national practice labor standards to evaluating policies based on rights-holder interest
• Opens a critique of tripartite interest representation