ciency issues, since higher-income individuals are taxed to pay benefits to lower-income families. A separate chapter introduces each of these possible effects of the EITC to the reader, and subsequently examines the current state of the research literature on the issue.

The final chapter provides a set of policy recommendations aimed at reducing some of the deficiencies of what is effectively a tax cut for relatively low-income working families. The recommendations are primarily aimed at refining the target effectiveness of the program and reducing its marriage penalty.

I have only one substantive concern. It has been repeatedly estimated that 20–30% of EITC payments are made in error. Over the past decade, this has been the basis for the damaging criticism that the program is riddled with fraud. While the book summarizes the research on this issue, it surprisingly does not offer strong policy recommendations to increase compliance in order to buttress political support for the EITC.

This book represents an enormous effort on the part of the authors to amass evidence on a wide range of policy issues related to the EITC, to distill them into a form that is accessible to a variety of audiences, and to organize and present them in a clear and coherent form. *Helping Working Families: The Earned Income Tax Credit* will instantly be the standard reference for anyone wanting an overview of the complex issues regarding the EITC and the best available evidence on its effects.

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Labor and Employment Law

Labor Standards in the United States and Canada. By Richard N. Block, Karen Roberts, and R. Oliver Clarke. Kalamazoo, Mich.: W.E. Upjohn Institute for Employment Research, 2003. 176 pp. ISBN 0-88099-236-0, $40.00 (cloth); 0-88099-235-2, $18.00 (paper).

Labor Standards in the United States and Canada is an ambitious book that comes out of an ambitious research project. The authors use economic theory to quantitatively measure the strength of labor standards set forth in statutes, regulations, and case law in the United States and Canada. The reason for tackling such a project, they explain, is to create a scientific basis for distinguishing between labor standards in different countries. By developing a way to measure labor standards, the authors hope to contribute to international policy discussions about whether labor standards should be included in free trade agreements like the WTO and the NAFTA. A secondary purpose of the book is to test the commonly held perception that Canada has stronger labor standards than the United States.

The authors compare ten labor standards that have been (or conceivably could be) legislated in each of the countries. They define labor standards as government mandates designed to affect the workplace—as opposed to standards that result from private activity like collective bargaining agreements or voluntary initiatives by employers. The ten standards are divided into two groups: (1) standards that require employer payments (minimum wage, overtime, paid time off, UI/EI, and workers' compensation); and (2) standards that constrain employer allocation of labor (collective bargaining, workplace discrimination prohibitions, unjust discharge, and advance notice for discharge).

The book is well-written and organized, but I would give it mixed marks for tone and level of discussion. Chapters 1 and 2 provide a well-documented survey of secondary literature about cultural differences between Canada and the United States and policy debates about the appropriateness of including labor provisions in international trade agreements. These chapters are simply written and presented at a basic level, offering a good primer for students new to the field of international labor and trade—if at some cost to readers who are familiar with the subject. The length of these chapters detracts from the main focus of the book, however, which is to explain and discuss an innovative method for comparing the strength of labor and employment provisions in different countries. The level of discussion becomes significantly more challenging in Chapter 3, however. The students who would benefit from the detailed and basic discussion in the first two chapters of the book are likely, at this point, to lose their way.

The authors demand much from readers after Chapter 2, implicitly assuming that they possess a basic knowledge of terminology and current conditions in ten areas of labor and employment law. Basics go unexplained—like the fact that no U.S. states mandate paid days off

and most Canadian provinces do; or that workers' compensation is insurance to cover on-the-job injuries (through a system of private insurance companies in most U.S. states, but through government provision in five states and Canada). The abrupt elevation of the level of discussion is unfortunate if the book is meant to be a tool for trade and labor policy-makers outside the United States and Canada. In most Latin American countries, for example, workers' compensation is part of the general social security system. There is no unemployment compensation or employment insurance in these countries. The authors' failure to provide a basic explanation of concepts foreign to non-Canadians and non-Americans may leave some of the most important potential readers out in the cold.

Some dubious statements in the description of the U.S. legal system may detract from the book's credibility in the eyes of lawyers and may have affected the data analysis and final conclusions. Most notably, the authors assert that there is no statute or court decision in the United States limiting a court's power to review an administrative agency's decision (p. 47). In fact, most U.S. state labor, workers' compensation, and unemployment compensation statutes, as well as the case law interpreting those statutes, set forth the grounds on which an administrative decision can be appealed. Grounds for appeal of an administrative decision can also be found in civil and administrative procedure codes in most states and at the federal level. In the United States as in Canada, courts generally must defer to the expert knowledge of the agency. In general, the grounds for appealing or overturning an administrative decision in the United States are the same as those listed by the authors (p. 45) as the grounds for overturning a Canadian labor tribunal decision—lack of jurisdiction, denial of due process, failure of the decision to comport with the law, or abuse of discretion by the administrative decision-maker.

Another weakness of the book, in my view, is the authors' assertion that an extensive appeals process necessarily benefits the employer and not the employee. Quoting the maxim, "Justice delayed is justice denied," they assume that a system in which the appeals system defers more often than not to administrative agencies' decisions is more worker-friendly, since employers have more money to sustain the appeal process. Inherent in this assertion is the assumption that administrative agencies more often than not use their expertise to make decisions in favor of the employee. Some literature supports this construction (see Theodore Eisenberg and Stewart J. Schwab, *Double Standard on Appeal: An Empirical Analysis of Employment Discrimination Cases in the U.S. Courts of Appeals*, Cornell Law School, Ithaca, New York, 2001, available at http://www.findjustice.com/ms/civil-just/schwab-report.htm). The literature itself is incomplete, however, and is countered by a healthy line of constitutional due process challenges to administrative actions in published law cases in the United States.

Absent empirical research comparing the number of initial denials, the results of internal administrative appeals, and appeals to the court system, it is impossible to determine whether administrative agencies effectively apply the law in favor of the employee. Cases in which courts overturn administrative decisions unlawfully decided against the employee show that without a working appeals system, justice denied is justice denied—delay or no delay.

It is probably true, as the authors maintain, that U.S. employers use the appeals system to undercut the authority of the National Labor Relations Board, and that reversals of NLRB decisions disproportionately favor employers over employees and unions. This phenomenon has been noted in legal circles (see NLRB panels for 2001 and 2002 in the proceedings of the American Bar Association Labor and Employment Section meetings) as well as in the literature cited by the authors. The same pattern may not occur, however, in other kinds of cases, like workers' compensation and unemployment compensation appeals. Many plaintiff workers' compensation attorneys and members of the U.S. personal injury bar can attest that litigation, including appeals of administrative decisions to courts, does not always benefit the employer or the defendant. Each area of labor and employment law in Canada and the United States has not only its own statute, but its own appeals provision and a large body of case law interpreting both the statute and appeals provisions. Overlaid on this basic complexity are differences in underlying public policy (for example, ensuring that injured workers receive medical care and some wage reimbursement in workers' compensation law versus protecting workers' right to organize and collectively bargain), and how open to or protective of a particular public policy a particular jurisdiction's courts may be. Unless the authors can cite stronger evidence in this connection, their comparison of the appeals provision in the U.S. NLRA and a Canadian workers' compensation statute will remain somewhat suspect. Compar-

ing the appeals provisions and interpretive case law of Canadian provincial labor relations statutes and the NLRA might demonstrate the relative openness of the two countries to union rights. Comparing provisions from the two different areas of law, however, would not make sense to most lawyers, and results in a somewhat suspect assertion.

Even supposing the authors' assumptions about the nature of appeals in each country are wrong, however, it is difficult to tell whether that flaw greatly influenced the reported results, given the large number of variables the authors incorporate in their statistical analysis. The authors' discussions of their results are intriguing and challenging. It is clear that a tremendous amount of thought and work went into translating legal concepts into numerical measurements—and the discussion and results were written so that even a lawyer could understand them.

Is *Labor Standards* an important contribution to the discussion of comparative international labor standards? Absolutely. Will policy-makers be able to use the authors' methods to fruitfully compare labor standards in different countries? In some cases, yes. In some cases, no. *Labor Standards* tests how strong the legal standards are, not how effectively they are implemented. Thus, for example, the authors' method would be ideal for testing whether a country that wishes to be considered for inclusion in a free trade agreement has labor standards that meet a carefully specified requirement. El Salvador and Guatemala are just two examples of countries whose labor standards have been widely criticized as inadequate, and the Block/Roberts/Clarke evaluation method might help settle, quantitatively, whether those criticisms are valid. It is conceivable that the world community could, on this basis, create a set of labor standard thresholds.

On the other hand, the method would not be as useful for assessing the labor standards of countries that have good written laws but problems with practical enforcement. For example, in Mexico, overtime provisions call for double-pay (as opposed to time-and-a-half) for more than eight hours' work in a day. In the authors' calculations, the resulting score would exceed that for the majority of U.S. states on this indicator. Yet the literature indicates that a country like Mexico may have difficulty enforcing those standards (although the picture is generally more complex in Mexico than indicated by much of the literature). There is also a problem from the legal point of view with simply analyzing the text of statutes. In Common Law countries like Canada and the United States and other countries that follow the English legal tradition, the nature of legal principles cannot be determined without referring to case law interpretations written by judges. In Civil Law countries like Mexico, where case law does not play such a key role in interpretation, legal principles can be drawn directly from statutes and codes.

Will I tell you the outcome of the comparison of labor standards in Canada and the United States? No. If labor standards are your field of interest, you need to read this book. The authors are pioneers in difficult territory. Their courageous book, the data they gathered and their method of analysis form a foundation for the discussion and critique necessary to develop quantitative and qualitative methods for determining the strength and effectiveness of legal provisions that apply to labor and employment relationships in different countries. If there are flaws in the book from a legal standpoint, those flaws result more from a lack of interdisciplinary communication between the disciplines of economics and law. Labor and employment lawyers operate in a world that is completely different from the world in which labor economists operate. We speak different languages, follow different traditions of analysis, and view labor and employment standards through radically different world views. While the labor economists who wrote this book thought about the overall impact of a country's complex labor law regime, most labor and employment lawyers are in administrative agencies and courts attempting to use their power and knowledge to effect particular outcomes in individual cases—sometimes in a single area of law (workers' compensation, for example, or collective labor relations) and sometimes without even thinking about the operation and effects of the entire system. I cannot imagine most lawyers reading *Labor Standards,* simply because reading such a book might be completely alien to their daily existences—just as I cannot imagine most economists reading through the mounds of case law lawyers must interpret on a daily basis in their work. Without better communication between the two disciplines, it will be impossible for economists alone or lawyers alone to embark on the work envisioned in *Labor Standards.* It will not be enough to have legal editors review the text for legal errors; lawyers must be involved in

the conception, development, and execution of projects like that discussed in *Labor Standards*.

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Workers' Rights as Human Rights. Edited by James A. Gross. Ithaca, N.Y.: ILR Press (an imprint of Cornell University Press), 2003. 272 pp. ISBN 0-8014-4088-2, $35.00 (cloth).

Increasing international economic integration over the past fifty years has raised concerns about the effects of globalization on labor conditions and human rights around the world. Although the exact connections between labor conditions and trade, international migration, and the activities of multinational companies are under-explored, both the United Nations (through the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights) and the International Labor Organization (through the Declaration of Fundamental Principles and Rights at Work) have provided points of departure for efforts to link traditional human rights to worker rights.

This book explores the general theme of linking human rights with worker rights from a narrower perspective than the title implies—the reform of U.S. labor relations law. As explained in the lucid introduction by James A. Gross, the book provides "a different perspective in the assessment of U.S. labor-relations law by applying a human rights standard that is *more fundamental than statutory or even constitutional standards*" (p. 6, emphasis added). The book seeks to present a "reexamination and reassessment of U.S. labor and employment law using human rights principles as standards for judgment" (p. 7).

Chapters by Lance Compa, Thomas B. Moorhead, and Roy Adams focus on the status of workers' freedom of association (the right singled out in the United Nations declarations) in the United States. Compa's chapter contrasts the stance of international and regional labor laws and treaties with several recent case studies illustrating the limitations of U.S. labor law when confronted with determined employer opposition to unionization. The chapter concludes with a list of suggested reforms of the National Labor Relations Act (NLRA) to provide stronger guarantees of workers' statutory collective bargaining rights. Moorhead's brief paper expresses satisfaction with the status quo in labor relations law. Adams is less concerned with the gap between law and practice than with the fact that workers can choose to accept or reject collective representation. His strong position is perhaps best summarized by the second sentence in his paper: "The corporate policy of union avoidance (and thus of collective bargaining avoidance), which is the norm among unorganized employers, is equivalent to the use of forced and child labor and overt discrimination on the basis of race, creed, sex, and color" (p. 142). Chapters by Linda A. Lotz and Reverend Jim Lewis illustrate how cooperation between labor organizations and faith-based organizations may facilitate efforts to organize low-wage workers for collective action.

Informative chapters by Lee Swepston and Edward E. Potter discuss the nature of and reasons for the gaps between the provisions of international human rights laws and the NLRA. In explaining the issues encountered in trying to harmonize domestic and international labor laws, these papers provide readers with a much fuller understanding of why U.S. labor law is so little influenced by international law.

The UN and ILO declarations are notable for emphasizing general rights rather than specific employment outcomes (such as minimum pay and health and safety standards). Not everyone is comfortable with the distinction between rights and outcomes. Emily A. Spieler's paper develops a case for defining occupational health and safety as a core worker right. In Spieler's view, even the provision of information on workplace risks (so that workers can make informed job choices) is not sufficient. She proposes that "human rights violations occur when employers' deliberate and intentional actions expose workers to preventable, predictable, and serious hazards" (p. 100).

The strength of this volume is in providing a guide to the body of international law pertaining to human rights and explaining how gaps between international law and domestic labor laws come to exist and persist. The proposals to link human rights to workers' rights are at least provocative, but skirt several important issues.

Most fundamentally, can employment practices, cultural norms, or national laws be changed by assertions of rights? Are there more effective approaches to improving labor conditions? One may infer from the complaints about the failures of the NLRA that assertions of rights are