

Table of Contents

	Page
PREFACE	v
ACKNOWLEDGMENTS	vii
TABLE OF CASES	xvii
Chapter I. “Extraterritorial” Reach of U.S. Labor Law	1
A. Foreign Workers Working in the U.S.	1
1. Undocumented Workers	1
<i>Hoffman Plastics Compound v. NLRB (2002)</i>	1
<i>Notes and Questions</i>	6
2. Guest-Worker Programs	8
<i>Rodrik, Globalization for Whom?</i>	9
<i>Briggs, Guestworker Programs for Low-Skilled Workers: Lessons From the Past and Warnings for the Future</i>	10
<i>Employment Provisions of U.S. Immigration Law</i>	15
<i>S.1033—Proposed Secure America and Orderly Immigration Act</i>	18
<i>Notes and Questions</i>	27
B. U.S. Workers Temporarily Abroad	30
<i>Asplundh Tree Expert Co. v. NLRB (2004)</i>	30
<i>Notes and Questions</i>	38
<i>Comparative Note: Lawson v. Serco Ltd. (2006)</i>	40
C. Global Labor Alliances	43
<i>Dowd v. ILA (1992)</i>	43
<i>Note: ILA v. NLRB (2005)</i>	49
<i>Notes and Questions</i>	52
Chapter II. International Framework for Assessment of U.S. Labor Standards	55
A. Standards at the Governmental Level	55
<i>ILO Convention 87 on Freedom of Association (1948)</i>	55
<i>ILO Declaration on Fundamental Principles and Rights at Work (1998)</i>	56
<i>Notes and Questions</i>	57
B. Standards for Employers	60
1. State-Generated Standards	60
<i>ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (as Amended in November 2000)</i>	60
<i>OECD Guidelines for Multinational Enterprises—Part IV (2000)</i>	62

	Page
B. Standards for Employers—Continued	
<i>Notes and Questions</i>	64
2. Privately Promulgated Standards	65
<i>Nike Code of Conduct</i>	65
<i>Notes and Questions</i>	66
C. Criticism of U.S. Labor Standards	69
<i>AFL-CIO and Confederation of Mexican Workers</i>	69
<i>Notes and Questions</i>	71
<i>Comparative Note: Canadian Charter of Rights and Freedoms:</i>	
<i>Matter of Alberta Reference (1987)</i>	72
<i>Human Rights Watch, Unfair Advantage</i>	74
<i>Notes and Questions</i>	82
Chapter III. Labor and Trade	85
A. “Comparative Advantage” vs. “Race to the Bottom”	85
1. Impact on Developed Countries	85
<i>Rodrik, Has Globalization Gone Too Far?</i>	85
<i>Notes and Questions</i>	90
<i>U.S. Trade Adjustment Assistance Act</i>	92
<i>Notes and Questions</i>	94
2. Impact on Developing Countries	95
<i>Rodrik, Globalization for Whom?</i>	95
<i>Notes and Questions</i>	98
B. Labor Standards in U.S. Treaties	99
1. Labor Aspects of U.S. Trade Promotion Authority & GSP Programs	100
<i>U.S. Trade Promotion Authority</i>	100
<i>U.S. Generalized System of Preferences</i>	102
<i>Notes and Question</i>	105
2. North American Free Trade Agreement (NAFTA)	107
<i>North American Agreement on Labor Cooperation (NAALC)</i>	107
<i>Notes and Questions</i>	111
3. Central America–Dominican Republic–U.S. Free Trade Agreement (CAFTA)	113
<i>CAFTA–Labor Provisions (Ch. 16)</i>	113
<i>Labor Movement Declaration Concerning [CAFTA]</i>	118
<i>Notes and Questions</i>	120
4. Bilateral Trade Agreements	122
<i>Extension of U.S. Cambodia Textile Agreement</i>	122
<i>Notes and Questions</i>	123
C. Trade Law Restrictions on U.S. Sanctions for Violations of Labor Rights	124
§ 301 of the Trade Act of 1975, as Amended	124
<i>General Agreement on Tariffs and Trade (GATT)</i>	127
<i>Agreement Establishing the [WTO]—Preamble</i>	128
§ 301 Petition Before Office of U.S. Trade Representative	129
<i>Notes and Questions</i>	136
Chapter IV. U.S.–Based Litigation Alleging Labor Rights Violations Abroad	139
A. Alien Tort Act Litigation	139
<i>Alien Tort Act</i>	139
<i>Torture Victim Protection Act of 1991</i>	140

	Page
A. Alien Tort Act Litigation—Continued	
<i>Sinaltrainal v. Coca-Cola Co. (2003)</i>	141
<i>Sosa v. Alvarez-Machain (2004)</i>	149
<i>Bowoto v. Chevron Corp. (2006)</i>	155
<i>Notes and Questions</i>	160
B. Breach of Company Standards.....	162
<i>Wal-Mart Stores, Inc.—Standards for Suppliers</i>	162
<i>Complaint in Doe v. Wal-Mart Stores, Inc. (2005)</i>	164
<i>Notes and Questions</i>	172
Chapter V. Comparative Labor Law	174
A. Overview of Different Systems.....	174
<i>Visser, Union Membership Statistics in 24 Countries</i>	174
<i>Collective Bargaining Coverage and Extension Procedures (2002)</i> ..	177
<i>Notes and Questions</i>	182
B. Independent Unionism: The Case of China.....	183
§ 301 <i>Petition Before Office of the U.S. Trade Representative</i>	183
<i>Brown, China’s Collective Contract Provisions: Can Collective</i>	
<i>Negotiations Embody Collective Bargaining?</i>	188
<i>Notes and Questions</i>	194
C. A Comparative Sampling.....	196
1. Exclusive vs. Plural Unionism.....	196
<i>Summers, Exclusive Representation: A Comparative Inquiry</i>	
<i>Into a “Unique” American Principle</i>	196
<i>Notes and Questions</i>	203
2. Regulation of the Recognition Process.....	205
<i>U.K. Employment Relations Act 2004</i>	205
<i>Notes and Questions</i>	208
3. Regulation of the Bargaining Process and Economic	
Weapons.....	208
a. Bargaining Process.....	209
<i>Ontario Labour Relations Act of 1995 (As Amended)</i>	209
b. Strikes and Lockouts.....	211
<i>Ontario Labour Relations Act of 1995 (As Amended)</i>	211
<i>U.K. Employment Relations Act 2004</i>	213
<i>Notes and Questions</i>	215
4. Works Councils and Codetermination: The German	
Model.....	216
<i>Zwanziger, Collective Labor Law in a Changing Environment:</i>	
<i>Aspects of the German Experience</i>	216
<i>Notes and Questions</i>	222
<i>EU European Works Council Directive—Annex</i>	223
<i>Notes and Questions</i>	226
5. Successorship.....	227
<i>EU Council Directive on Transfer of Undertakings</i>	227
<i>Notes and Questions</i>	232
6. Union Security and Negative Freedom of Association....	232
<i>Cases of Sorensen v. Denmark and Rasmussen v. Denmark</i>	
<i>(2006)</i>	232
7. The Emerging Australian Experiment in Voluntarism...-	236

	Page
C. A Comparative Sampling—Continued	
<i>New South Wales v. Commonwealth of Australia; Western Australia v. Commonwealth of Australia (2006)</i>	237
<i>Notes and Questions</i>	240
INDEX	243