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## Boundaryless Careers Challenge Unions and the Law

**T**HE DAYS OF LONG-TERM EMPLOYMENT at one firm, with internal labor markets and hierarchical job ladders, have disappeared. In their wake have come job hopping across firms, contingent work, personal responsibility for career planning and skill acquisition, and the disintegration of mutual expectations between employer and employee about commitment in exchange for security (see sidebar 'Sign Here', page 2). Welcome to the "boundaryless" world of work.

The realities of a more competitive and fluid workplace are challenging many of the legal theories and institutional structures that dominated the 20th century, according to Katherine V.W. Stone, the Anne Evans Estabrook Professor of Dispute Resolution at ILR and professor of law at Cornell Law School. Existing labor and employment statutes are predicated on workforce stability and strong attachments between employers and employees. But the advent of "boundaryless" careers, where employment identity is derived from skill sets or professional expertise rather than from the place of employment, suggests the time has come to rethink and revamp the existing order.

In the realm of employment discrimination law, Prof. Stone told attendees at a recent session of the *Institute for Workplace Studies'* Workplace Colloquium Series, "we need a new theory of substantive liability and new avenues for redress." The growing casualization of employment relations, she continued, likewise demands an overhaul of collective bargaining laws and revised forms of union representation.

Consider statutes such as the National Labor Relations Act and Title VII of the Civil Rights Act of 1964. The labor act was conceived against a backdrop of employer-specific bargaining units, distinct job classifications, seniority, just-cause termination, and longevity-based wages and benefits. Anti-discrimination laws were aimed at eliminating bias and partiality within a hierarchically organized workplace. Even New Deal programs, such as Social Security and unemployment insurance, were devised to encourage and reinforce long-term bonds between employer and employee.

The modern "boundaryless" workplace, however, presents an altered reality. For one thing, the rate of unionization has declined dramatically and many workplace changes are occurring in nonunion settings, leaving employees without the protections afforded by collective representation. Moreover, Prof. Stone noted, labor laws do not ensure pension and health insurance portability for workers who change jobs frequently or address work arrangements that conflict with the legal definition of a bargaining unit.

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## ILR Faculty Write About...

Economic growth has long been perceived as the magic elixir that would lift a nation and its people out of poverty. Gary Fields, professor of labor economics and economics at ILR, elaborates on that idea in *Distribution and Development: A New Look at the Developing World* (2001. New York: Russell Sage Foundation, and Cambridge: The MIT Press. 260 pgs. \$35). Prof. Fields uses newly available panel data that look at individuals and families over time to analyze the differential impact of economic growth on different groups within an economy. He explores the interlocking concerns of poverty, inequality, income mobility, and economic well being and finds that the poor do get richer as economies grow and develop, although half the time their situation improves faster than that of wealthier classes and half the time it improves more slowly. Relying on theoretical and empirical techniques, Prof. Fields suggests a set of variables that can be used to measure gains in the standard of living and analyzes the mix of policies and circumstances that enable some countries to fare better than others. Despite its technical base, this book is accessible to informed lay readers.

Tuition at America's best colleges and universities has been rising faster than the rate of inflation. Ronald G. Ehrenberg, Irving M. Ives Professor and professor of labor economics at ILR, analyzes and explains the phenomenon in *Tuition Rising: Why College Costs So Much* (2000. Cambridge: Harvard University Press. 336 pgs. \$39.95). Prof. Ehrenberg concludes that ineffective central control of costs and competition for students are the roots of the problem.



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## Boundaryless Careers

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Anti-discrimination laws seem inappropriate for workplaces where it is just as important to fit in as it is to forge ahead. Individualized skill acquisition, work teams that mutate into cliques, vaguely defined performance standards, and invisible decision-makers who allocate rewards can all have insidious effects on certain classes of workers. Women and minority employees, for example, are less prone to engage in proactive career management and more likely to be frozen out by co-workers. “Without clear hierarchies or opportunities that are specified,” Prof. Stone said, “it’s hard to complain about gender and race discrimination or to isolate and assess blame.”

Alternatives to the status quo are needed. Labor law doctrine, Prof. Stone suggested, should jettison its job and employer focus and embrace an employee-centered approach. Unions could recast themselves in any number of ways, such as mutual benefit associations open to all workers, occupation-specific craft unions, or citizen unions that advocate for “living wages,” corporate contributions to the community, job training, and the like. And finally, Prof. Stone said, employers and employees should turn to alternative dispute resolution (ADR), with the involvement of outside neutrals, to help remedy more subtle forms of workplace discrimination.

To be sure, change has been rippling through the union movement and some employers have embraced ADR. The near-term prospects for reform of labor and employment laws, however, appear dimmer. Indeed, there is no doubt the “boundaryless” workplace will continue to strain current arrangements.

*‘The New Psychological Contract: Implications of the Changing Workplace for Labor and Employment Law,’* by Prof. Stone, appeared in the February 2001 issue of the *UCLA Law Review*. Prof. Stone may be reached at (607)255-6692 or [kvs4@cornell.edu](mailto:kvs4@cornell.edu). ■

## Sign Here: The New Psychological Contract

The emergence of the “boundaryless” workplace affects more than just labor and employment law and union structure and practice. Traditional human resource strategies that reflect and reinforce long-term employer-employee bonds are also in transition. The old psychological contract, which embodied a set of mutual expectations and obligations between employer and employee, is being rewritten to accommodate employers’ need for employee commitment without the promise of job security.

Globalization of trade, a focus on short-term costs, and rapid response to changing market conditions all mean that workers come and go in response to forces beyond their control. At the same time, many are quitting in search of higher pay and status, more challenging assignments, and more participative environments. Indeed, the Bureau of Labor Statistics reported that job tenure, particularly among men, fell steeply between 1983 and 1998. Bilateral loyalty is a thing of the past.

“Employers are left with a paradox,” Prof. Stone noted in her remarks at the colloquium. “That is, how to motivate and induce efficiency, productivity, quality outputs, and entrepreneurial behavior in the absence of an implicit pledge of lifetime employment with well-defined job ladders.” What employers really want, Prof. Stone explained, is something academic theorists call “organizational citizenship behavior” (OCB). By this they mean spontaneous and innovative activities above and beyond employees’ specific, mundane roles. OCB is vital, she said, because it correlates with profitability and effectiveness.

Human resource strategy and practice are beginning to resolve this dilemma. The new psychological contract, Prof. Stone said, contains a different mix of inducements. Many employers now offer ongoing skill training, an investment in human capital that may enhance workers’ employability at other companies. Employers help employees raise their social capital by providing opportunities to develop networks of peers, customers, suppliers, and competitors who could provide employment in the future. In keeping with the twin themes of individual career paths and individual achievement, new compensation schemes reward high performers and reflect differential talents and contributions. Meanwhile, flat hierarchies and the absence of executive perks, such as restricted dining rooms and parking places, help alleviate status distinctions and create a sense of egalitarian belonging.

## Two Views on the Textile Workers’ History

**S**AME FACTS, different emphasis. Not uncommon when interpreting history, especially when those rendering the analysis happen to be a disinterested scholar and a committed labor leader.

So it was no surprise when Clete Daniel, professor of American labor history at ILR, and Bruce S. Raynor, secretary-treasurer of UNITE, proffered distinct perspectives on the history of the Textile Workers Union of America at a recent session of the Workplace Colloquium Series, which is sponsored by the *Institute for Workplace Studies*.

According to Prof. Daniel, the textile workers gained little power within their broadly diversified industry. The union successfully organized northern millhands, he said, but faltered in the south in the face of fierce anti-unionism among employers and the failure of federal courts and the National Labor Relations Board to enforce workers’ rights. The recession of 1937 and the loss of Sidney Hillman as the organizing committee’s visionary and charismatic leader further hindered a critical pre-World War II organizing drive.

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## Finding the Link from Diversity to the Bottom Line

**M**OST U.S. EMPLOYERS must abide by Title VII of the Civil Rights Act of 1964 and other anti-discrimination laws. One intent, of course, is to enhance workforce diversity by affording employment opportunities to protected classes of workers, such as people of color, women, ethnic and religious minorities, veterans, individuals with disabilities, and 40-somethings and beyond. Practically speaking, this means employers spend a lot of time managing compliance issues and training employees to co-exist in a world of differences.

But focusing on the metrics of regulation and appropriate skills and attitudes obscures a fundamental question: is diversity good for business? Researchers have already shown that diversity promotes innovation and problem solving and opens up new markets. A parallel stream of research has shown a direct connection between these factors and financial performance. Quinetta Roberson, assistant professor of human resource studies at ILR, is now trying to determine whether the seemingly indirect link between diversity and the bottom line is actually more straightforward. Prof. Roberson discussed her research at a recent session of the *Institute for Workplace Studies'* 2000-2001 Workplace Colloquium Series.

The four-part study promises to yield important practical outcomes. In addition to pushing the academic literature towards consideration of the strategic role of diversity within organizations, Prof. Roberson also hopes to provide human resource (HR) and diversity professionals with a roadmap specifying how certain bundles of diversity management practices can make the work environment more inclusive. (For purposes of this project, "diversity" refers to the range of human similarities and differences while "inclusion" refers to organizational systems and structures that value and make the most of human differences.)

As Prof. Roberson pointed out, getting the numbers right is merely a prelude to fully integrating diversity into a company's culture and strategy. That second step requires commitment from the top, linking diversity management to organizational strategy and monitoring its impact, fairness in policies,

attention to individual needs and strengths, and implementation of participative work systems.

The work environment dictates what kind of diversity management is important, Prof. Roberson explained. Managers must understand how diversity affects the work of the business unit and then use this knowledge to improve results. For example, a factory with a high proportion of male workers may need a different gender balance and/or attention to sexual harassment issues. The research and development division of this organization may find that diverse perspectives arising from educational background, tenure, or career experiences facilitate greater creativity and innovation. In other words, managers should create a climate in which all employees can contribute toward the achievement of organizational objectives. "One day," Prof. Roberson said, "diversity management will be part of strategic HR management."

This current study builds on anecdotal evidence suggesting that workforce diversity positively affects results. Prof. Roberson cited *Fortune* magazine's list of 50 best companies for minorities, whose overall stock performance has outpaced the Standard & Poor's 500. She noted specific cases in which business needs prompted more proactive diversity management, such as efforts by a large pharmaceutical company to diversify its sales force by redefining and focusing on knowledge, skills, and abilities; this transition enabled the company to open up new markets and

better serve its customers. In another instance, one high-tech manufacturer trained managers in coaching and communicating with employees and soon realized a positive spillover: significant improvements in the management of its already diverse workforce.

Prof. Roberson and colleagues Brent Smith, assistant professor of organizational behavior at ILR, and Susan Woods, senior extension associate at ILR's Programs for Employment and Workplace Systems, are gathering data in three stages from a Web-based survey of diversity professionals. In the first phase, they asked respondents to define "inclusion" and "diversity" and to qualitatively describe such environments within organizations. Next, they asked respondents to compare the

### Diversity management practices can make the work environment more inclusive.

processes of building inclusive organizations with building diverse organizations by rating the extent to which organizational and HR at-

tributes support each environment. The current phase involves delving into leadership qualities; i.e., the skills and attributes necessary to promote and sustain inclusion within organizations.

The final piece of the project will attempt to measure the bottom-line impact of workforce diversity. The research team will draw on the existing literature in the field of strategic HR to devise quantitative standards for monitoring the impacts of diversity initiatives within organizations. The outcomes of this phase should enable the researchers to make prescriptions for using diversity to improve organizational performance. Prof. Roberson and her colleagues expect to complete the project later this year.

The study is funded by ILR and the National Conference for Community and Justice. Contact Prof. Roberson at (607)255-4454 or qmr3@cornell.edu for more information. ■

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### Textile Workers

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As the committee's efforts flagged, Prof. Daniel said, internal squabbles arose and "a pattern and culture of self-destructive behavior" emerged. Its undemocratic organizing structure, coupled with the campaign's failure in the south, prompted key allies to withdraw support. The committee was dissolved and replaced by a constitutionally-based but "highly politicized" union, Prof. Daniel explained. Deep divisions between the new union's northern and southern flanks debilitated the nascent organization. A strike in 1951, a byproduct of this internal warfare, destroyed the union's small base in the south.

Mr. Raynor countered with a different historical twist. He agreed that vicious employer opposition in the south, and not workers' timidity, as northern critics had charged, seriously damaged the union. But focusing more on the recent past, he noted the union's economic successes and its role in nurtur-

ing dynamic leaders for a growing labor movement. Moreover, the textile workers union, now part of UNITE, is alive and well today. It is imbued with an ethic of honesty and hard work, it actively seeks new members, and it values rank-and-file empowerment. The textile workers, he concluded, have persevered through difficult periods and continued to fight for equality between labor and management.

Prof. Daniel's book, *Culture of Misfortune: An Interpretive History of Textile Unionism in the United States*, will soon be published by Cornell University Press. Prof. Daniel may be reached at [ced6@cornell.edu](mailto:ced6@cornell.edu) or (607)255-6691. ■

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