

Table of Contents

Notes on Contributors	xxix
Editor's Preface	xxxiii
List of Abbreviations	xxxv
METHODOLOGY	1
Chapter 1	
Comparativism in Labour Law and Industrial Relations	
<i>Roger Blanpain</i>	3
I. In Search of a Definition	4
II. Uses of the Comparative Method	5
A. Better Insight into One's Own National System	5
B. International Private Labour Law	6
C. Multinational Enterprises and International Unions: Globalization	6
D. Forecast of Further Developments	8
E. To Guide or Promote Social Change at Home: Assistance	8
F. As an Instrument in the Formulation and the Application of International Labour Standards: Horizontal and Vertical Comparison	9
1. The International Labour Organization	9
2. The Council of Europe and the European Union	10

III.	What and How to Compare?	12
	A. Comparison of Functions Rather than Institutions	12
	B. Comparison of What Is 'Going On'	13
	C. Looking for 'Models'	14
	D. An Integrated and Global Approach	15
	E. Group Collaboration	16
	F. Educational Visits	16
IV.	The Traps	17
	A. Language and Terminology	17
	B. Parochialism and Ideological Hangovers	18
V.	The Transplantability Issue	19
VI.	The Status of the 'Academic Art'	21
VII.	<i>De Comparatione Ferenda</i> : Guidelines	22
	A. Teaching	22
	B. Research	22
VIII.	Conclusions	22
	Selected Bibliography	23
Chapter 2		
Comparative Labour Law: Sources and Documentations		
	<i>Michele Colucci & Nuna Zekic</i>	27
I.	Introduction	27
II.	International Sources	27
	A. ILO Publications	27
	B. The Organization for Economic Cooperation and Development	30
III.	Regional Sources	31
	A. The European Union	31
	B. APEC	33
	C. Africa and South America	33
IV.	Private Collections	33
V.	Books	34
VI.	Bulletins	35
VII.	Academic Journals	36
VIII.	E-Journals	38
IX.	International Societies and Meetings	38
ACTORS		43
Chapter 3		
National, Regional and International Employers' Organizations		
	<i>Gary Rynhart & Jean Dejardin</i>	45
I.	Introduction: Definition	45

II.	Historical Development: From Guilds to Employers' Organizations	46
III.	Functions of Employers' Organizations	48
	A. Promoting Business Interests	48
	B. Representative Function in the Political Structure	49
	C. Representative Function in the Industrial Relations System	50
	D. Internal Functions of Employers' Organizations	53
	E. Speaking for All Business	54
	F. Technical Assistance	55
IV.	Structure of Employers' Organizations	55
	A. Unity of the Central Organization at National Level	56
	1. Coverage of the Central Organization	56
	2. Parallel Organizations	56
	B. Membership of Employers' Organizations	57
	1. Small and Medium-Sized Enterprises	57
	2. Public Sector Enterprises	58
	C. Employers' Organizations at the Sectoral and Regional Levels	59
	D. Means and Resources	60
	E. Mergers and Changing Structures	61
V.	Regional Employers' Organizations	62
VI.	International Employers' Organizations	64
	A. Historical Development	64
	B. International Employers' Organizations at the Global Level	64
	C. The International Organisation of Employers (IOE)	65
VII.	Future Challenges for Employer Organizations	68
	A. Service Delivery	68
	B. Collective Interests versus Individual	69
	C. Role of Business in Society	69
	D. Changing Trends in Trade Unions	70
	E. Explaining Change	71
	Selected Bibliography	72

Chapter 4

The International Trade Union Movement

John P. Windmuller, Stephen K. Pursey & Jim Baker

75

I.	Historical Overview	75
	A. To 1914	75
	B. From 1914 to 1939	76
	C. After 1939	77
II.	The International Trade Union Confederation	78
	A. Aims and Activities	79
	1. Overall Goals	79
	2. Representational and Organizational Work	80

B.	Structure and Government	81
1.	Membership and Finances	81
2.	Governing Bodies and Secretariat	82
3.	Regional Organizations	83
III.	The World Federation of Trade Unions	83
A.	Aims and Activities	84
B.	Structure and Government	84
1.	Membership and Finances	84
2.	Governing Bodies and Secretariat	85
3.	Trade Union Internationals	85
IV.	Other International, Regional or Sub-regional Organizations	86
A.	The Trade Union Advisory Committee to the OECD (TUAC-OECD)	86
B.	The European Trade Union Confederation	87
C.	The Organization of African Trade Union Unity	89
D.	The International Confederation of Arab Trade Unions	90
E.	Sub-regional Bodies	90
V.	Global Union Federations	91
A.	Organization and Structure	91
1.	Relations with Global Internationals	91
2.	Membership and Finances	92
3.	Governing Bodies and Sector Groups	93
B.	Aims and Activities	93
1.	Solidarity and Organizational Work	94
2.	Information and Research	94
VI.	Conclusions	95
	Selected Bibliography	98
	List of International Union Websites	99

Chapter 5

Human Resource Management in Context

Randall S. Schuler, Susan E. Jackson & Ibraiz Tarique

101

I.	Introduction	101
II.	What Is Human Resource Management and How Does It Operate?	103
A.	What Are the Activities that HR Entails?	103
1.	Strategic Analysis	103
2.	Strategic Implementation	103
a.	Four-Task Model for HR	106
b.	Environmental Improvements	106
c.	Empowerment/Engagement	106

3.	A Link-to-the-Organization Role	107
B.	Staffing the HR Management Department	108
1.	Specialists versus Generalists	108
2.	Centralization versus Decentralization	108
C.	Partnership in HR	109
D.	HR Management Reflects Changing Context	111
1.	Globalization of Industry and Globalization of the Workforce	111
2.	Organizational Changes	112
a.	Layoffs and Job Elimination	112
b.	Mergers and Acquisitions	113
c.	Innovation in Technology	113
d.	Innovation of Practices	114
e.	Teams	115
3.	Outsourcing and Offshoring and Reshoring	115
4.	Legal Issues	116
E.	Forces Impacting HR Management	117
1.	Pressures for Social Responsibility	117
2.	Elements of the Stakeholder Model	117
a.	The Organization as Stakeholder	117
b.	Organization Members (Employees) as Stakeholders	118
c.	Customers as Stakeholders	118
d.	Investors as Stakeholders	119
e.	Strategic Partners as Stakeholders	119
f.	Society as Stakeholder	120
F.	Strategic Human Resource Management	121
G.	Strategic International Human Resource Management	129
H.	Cross-Border Alliances: International Mergers and Acquisitions and International Joint Ventures	131
III.	What Are Some of the Theoretical Frameworks that Are Applicable in Studying the Human Resource Management Field?	131
A.	Resource-Based View	131
B.	Institutionalist Theory	132
C.	Agency Theory	133
D.	General Systems Theory	134
E.	Human Capital Theory	134
F.	Life-Cycle Theory	135
G.	Role Behaviour Theory	135
H.	Transactions Cost Theory	136
I.	Strategic Contingency Theory	136

J.	Organizational Learning Theory	137
K.	Information Processing Perspective	137
IV.	What Are Some of the Key Issues Relevant to the Practice of Human Resource Management that Are Likely to Be Prevalent in the Twenty-First Century?	138
A.	Leadership	138
B.	Performance Management and Pay for Performance	138
C.	Effectiveness of Human Resource Management Using Multiple Stakeholders	140
D.	Technology and Knowledge Transfer	141
E.	Flexible Work Arrangements	141
F.	Managing Human Resource in Knowledge-Intensive Environments	142
G.	No One Best Way: Context Is Critical	143
H.	A Differentiated Treatment of the Workforce?	144
I.	Global Talent Management	145
V.	Conclusion	146
	Selected Bibliography	146
 SOURCES OF REGULATION		 153
 Chapter 6		
International Labour Law		
	<i>Lee Swepston</i>	155
I.	Introduction	155
A.	Definition	155
B.	Historical Development	155
C.	The Purposes of International Labour Law	156
II.	The Sources of International Labour Law	157
A.	ILO Sources	157
1.	The Constitution of the ILO	157
2.	Conventions and Recommendations	157
3.	Declarations	160
4.	Other Instruments	161
5.	Interpretation	161
6.	Case Law	162
7.	Instruments Adopted at Special Conferences	162
B.	United Nations Instruments	162
C.	European Instruments	163
1.	Council of Europe Instruments	163
2.	European Communities Standards	163
D.	Instruments in the American Region	164
E.	Instruments in the African Region	164

	F. Instruments in the Arab Region	165
	G. Bilateral Treaties	165
	H. Generalized Systems of Preference and Other Trade Questions	165
	I. Relation between Sources	165
III.	The Content of International Labour Law	165
	A. Freedom of Association and Protection of the Right to Organize	166
	B. Forced Labour	167
	C. Discrimination in Employment and Occupation	168
	D. Child Labour	168
	E. Employment	169
	F. Wages	170
	G. General Conditions of Work	170
	H. Occupational Safety and Health	171
	I. Social Security	172
	J. Social Policy	172
	K. Industrial Relations	173
	L. Employment of Women	173
	M. Older Workers	174
	N. Migrant Workers	174
	O. Maritime Workers	175
	P. Other Special Categories of Workers	175
	Q. Labour Administration and Governance	176
IV.	The Implementation of International Labour Standards	177
	A. Obligations in Respect of Standards	177
	B. Ratification of Conventions	177
	C. Reports on Ratified Conventions	177
	D. The Incorporation of International Conventions in National Law as a Result of Ratification	178
V.	The Supervisory Machinery of the ILO	178
	A. Examination of Periodic Reports	178
	B. Procedures Based on the Examination of Complaints	179
	C. Special Machinery in the Field of Freedom of Association	180
	D. Special Studies and Inquiries, Promotional Measures, Technical Cooperation	181
VI.	Supervisory Machinery Established by Other Organizations	181
	Selected Bibliography	182
Chapter 7		
The European Union and Employment Law		
	<i>Roger Blanpain</i>	183
I.	Introductory Remarks	183
II.	Competences Regarding Labour and Employment Matters	185

A.	Legislative Competence	185
1.	Qualified Majority	185
2.	Unanimous Voting	185
3.	Excluded Matters	186
B.	Guidelines and Peer Pressure: Employment Policies	186
C.	The European Social Fund	186
III.	The Role of Social Partners: Consultation and Collective Bargaining	188
IV.	The ‘ <i>Acquis Communautaire</i> ’	190
A.	In General	190
B.	Free Movement of Workers	191
C.	Equal Treatment: A General Framework: Irrespective of Race or Ethnic Origin	194
D.	Equal Treatment for Men and Women	196
E.	Temporary Agency Work	199
F.	Restructuring of Enterprises	200
1.	Collective Redundancies	201
2.	Transfer of Undertakings and Acquired Rights	202
V.	The Social Dialogue	204
A.	In General	204
B.	The Sectoral Social Dialogue	208
C.	The European Company Statute (SE)	209
VI.	Conclusions	210
	Selected Bibliography	211
Chapter 8		
Multinational Enterprises and Codes of Conduct: The OECD Guidelines for MNEs in Perspective		
	<i>Peter Tergeist</i>	213
I.	Introduction	213
II.	The Guidelines: Institutional Set-Up and Industrial Relations Content	215
A.	Relevant Provisions on Employment and Industrial Relations in Guidelines Chapters	217
1.	Freedom of Association (Paragraphs 1a, 1b and 7)	218
2.	Child Labour (Paragraph 1c)	218
3.	Forced Labour (Paragraph 1d)	219
4.	Discrimination and Equal Opportunity (Paragraph 1e)	219
5.	Collective Bargaining (Paragraphs 1b, 2, 7 and 8)	219
6.	Information and Consultation Rights (Paragraphs 2c and 3)	219
7.	Observance of Employment Standards (Paragraph 4a and b)	220
8.	Health and Safety (Paragraph 4c)	220

9.	Skills and Training of Local Personnel (Paragraph 5)	220
10.	Reasonable Notice in Case of Major Business Changes (Paragraph 6)	220
11.	Access to the Real Decision Makers (Paragraph 8)	220
B.	Some Broader Issues and Interpretations	220
III.	Ensuring Effective Implementation: A Crucial Challenge	227
A.	Introduction	227
B.	Implementation Procedures Relating to NCPs	227
1.	Institutional Mechanisms	227
2.	Information and Promotion	228
3.	Implementation in Specific Instances	228
C.	Implementation Procedures Relating to the Investment Committee	231
1.	Clarifications	231
IV.	Instruments of Other International Organizations	232
A.	The ILO Tripartite Declaration of Principles	232
B.	The UN Global Compact	233
C.	The ILO Declaration on Fundamental Principles and Rights at Work	235
D.	UN Guiding Principles on Business and Human Rights	236
V.	Private CSR Initiatives	237
VI.	Summary and Conclusions	240
	Selected Bibliography	242
Chapter 9		
Conflicts of Laws in Employment Contracts and Industrial Relations		
	<i>Martin Franzen</i>	245
I.	Introduction	245
II.	Sources	247
A.	International Sources	247
B.	National Sources	248
III.	The Proper Law of the Employment Contract	249
A.	Autonomy of the Parties	249
B.	<i>Lex Loci Laboris</i>	253
C.	Article 6 of the EC-Convention, Article 8 of the Rome I-Regulation	255
IV.	The Sphere of Application of the Protective Norms with Public Law Character	260
V.	The Scope of the Proper Law	262
VI.	Collective Labour Law: Industrial Relations	265
	Selected Bibliography	267

INTERNATIONAL DEVELOPMENTS AND COMPARATIVE STUDIES **269**
Chapter 10**Protection of Migrant Workers in the Twenty-First Century:
The Role of International Instruments**

<i>Piyasiri Wickramasekara</i>	271
I. Migrants and Migrant Workers	272
II. Trends in International Migration	273
III. Challenges of Globalization for Protection of Migrant Workers	275
A. Growing Global Disparities and Rising Migration Pressures	277
B. Divergence between Labour Market Needs and Immigration Policies in Developed Countries	278
C. Changing Employment Relationships	280
D. Exploitation and Abuse of Migrant Workers	282
E. Post-9/11 Security Concerns and ‘Crimmigration’	285
IV. International Instruments for the Protection of Migrant Workers	286
A. Conventions Dealing with Fundamental/Universal Rights of Migrant Workers	288
1. ILO Declaration on Fundamental Principles and Rights at Work and Core Conventions	288
2. Universal Human Rights Instruments of the United Nations	289
B. Migrant-Specific and Other Applicable Conventions	290
1. United Nations: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990	290
2. Other Relevant UN Conventions	293
3. ILO Migrant Worker Conventions	294
4. Other ILO Conventions	297
5. ILO Convention on Domestic Workers, 2011 (No. 189), and the Domestic Workers Recommendation, 2011 (No. 201)	298
C. Important Developments Concerning ILO Approaches to Migrant Worker Rights and Instruments	300
1. The Tripartite Meeting of Experts on Future ILO Activities in the Field of Migration and Guidelines for Some Vulnerable Categories of Migrant Workers	300
2. ILO General Survey/Review of Migrant Worker Instruments	301

3.	The General Discussion on Migrant Workers at the 92nd Session of the International Labour Conference, June 2004	302
4.	The ILO Multilateral Framework on Labour Migration	305
5.	The ILO Tripartite Technical Meeting on Labour Migration, 4–8 November 2013	308
V.	Evolving Approaches and the Way Forward	309

Chapter 11

Freedom of Association

Breen Creighton

315

I.	The Concept of Freedom of Association	315
II.	International Recognition of Freedom of Association	317
	A. The Universal Declaration of Human Rights, 1948	317
	B. The 1966 Covenants	317
	C. Regional Standards Relating to Freedom of Association	319
	D. Freedom of Association and the ILO	321
	E. Conventions Nos. 87 and 98	330
III.	Application of the Principles of Freedom of Association	332
	A. The Supervisory Bodies	332
	B. The Principles as Developed	344
	C. Choice of Union	345
	D. Union Representation and Bargaining in Good Faith	347
	E. Interference with Bargaining Outcomes	350
	F. The Right to Strike	351
IV.	Evaluation and Future Directions	357
	Selected Bibliography	359

Chapter 12

Subordinate Employees or Self-Employed Workers?

Chris Engels

361

I.	Introduction	361
II.	The Importance of the Distinction	362
III.	The Tests Developed to Make the Distinction between Employees and Self-Employed	366
	A. The Absence of a Full Definition	366
	B. The Freedom of Choice	367
	C. Performance by a Physical Person, Not a Legal Entity	370
	D. The Different Tests that Were Developed	371
	E. European Labour Law	373
	F. The International Labour Organization	378
IV.	The Extension of the Traditional Scope of Labour and Employment Law	380

A.	ILO Unsuccessful Effort: Draft Convention and Recommendation on Contract Labour	380
B.	Coverage of Economically Dependent Workers	381
V.	Conclusion	383

Chapter 13

Working Conditions and Globalization

	<i>Jean-Michel Servais</i>	385
--	----------------------------	-----

I.	Persistent Social Malaise	386
A.	Countless Social Fracture Lines	386
B.	The Labour Scene Diversifies	389
C.	The New Social Question	391
II.	Questions about the New Policies	391
A.	Three Categories of Standards	392
B.	The Cost of Labour Standards	396
C.	Autonomous Standards, Heteronymous Standards, and Alternatives to Social Regulation	398
III.	A Quest for Innovative Formula of Work Protection	401
A.	Individual Freedoms and Working Conditions	402
B.	'Flexicurity' and 'Decent Work'	406
C.	Old Techniques, New Protections	409
	Selected Bibliography	411

Chapter 14

Equality and Prohibition of Discrimination in Employment

	<i>Petra Foubert</i>	419
--	----------------------	-----

I.	Legal Theories of Equality/Difference and Discrimination	419
A.	Legal Theories of Equality and Difference	419
1.	Equality, Difference and Comparability	420
a.	The Influence of Society	420
b.	The Purpose of the Law	421
c.	The Importance of a Comparator/Standard	422
2.	Different Approaches to Equality and Difference	422
a.	Formal Equality	423
b.	Substantive Equality	424
B.	Discrimination <i>Sensu Lato</i>	429
1.	Different Forms of Discrimination <i>Sensu Lato</i>	431
a.	Overt/Direct Discrimination	431
b.	Covert/Indirect Discrimination	432
C.	Justifying Discrimination	434
1.	Justification of Overt/Direct Discrimination	434
2.	Justification of Covert/Indirect Discrimination	436
3.	The Limits of Justification	436

II.	International Legal Rules on Equality and Prohibition of Discrimination (EPD) in Employment	437
A.	Sources of the International Labour Standard of EPD	437
1.	In General	437
2.	Examples	438
B.	Grounds of Prohibited Discrimination	440
1.	In General	440
2.	Race (Colour, National Extraction, Social Origin)	441
3.	Sex (Civil or Marital Status, Family Responsibilities, Pregnancy and Confinement, Sexual Harassment, Sexual Orientation)	442
4.	Ideological Freedoms and Beliefs (Political Opinion, Religion, Trade Union Membership)	444
5.	Other Grounds (Family Responsibilities, Disablement, Health, Private Life, Age)	445
C.	Justifications	447
1.	Inherent Requirements of a Particular Job	447
2.	Security of the State	448
3.	Special Measure of Protection/Affirmative or Positive Action	448
D.	Field of Application	449
1.	The Pre-employment Stage	449
2.	General Terms and Conditions of Employment	451
E.	Remedies	453
1.	Severance	453
2.	Extension	454
3.	Affirmative Action	455
a.	Equal Pay for Work of Equal Value	455
b.	Special Rights	455
4.	Implementation	456
F.	Future Outlook	456
1.	The Dynamics of Equality	457
2.	Final Remarks	459
	Selected Bibliography	459
Chapter 15		
Employment Privacy		
<i>Frank Hendrickx</i>		465
I.	Introduction	465
II.	General Principles of Employment Privacy Law	467
A.	The Right to Privacy as a Human Right	467
B.	The Employment Environment	469
III.	International Data Protection Regulation	470
A.	Council of Europe Conventions and Recommendations	471

B.	European Directive 95/46/EC	472
C.	Working Party Opinion 8/2001	473
D.	International Labour Organisation	476
IV.	European Human Rights Case Law	477
V.	European Comparative Overview	478
VI.	Conclusion	486
	Selected Bibliography	488

Chapter 16

Labour Law Protections, Training Contracts and the Problem of Youth Unemployment

Michele Tiraboschi 489

I.	Introduction	489
II.	The Issue of Youth Unemployment: Stylized Facts	490
III.	Youth Employment: The Limits of the Proposal for the So-Called 'Single Employment Contract'	494
IV.	The (Main) Determinants of Youth Unemployment: Education Systems, School-to-Work Transition, Labour Market Institutions, Industrial Relations Systems	495
V.	Traineeships and Internships for Young People: A Comparative Analysis Across Countries	500
A.	The Regulatory Framework of Traineeship	500
B.	Types of Traineeship Arrangements	502
C.	The Issue of Traineeships' Remuneration	503
D.	Traineeship and Internship: Between Training and Work	504
E.	Traineeships Signaling Power to Employers	506
F.	Towards a European Quality Framework for Traineeships	507
VI.	Apprenticeship	509
A.	Apprenticeship's Regulatory Framework	510
B.	Contractual Arrangements	510
C.	Compensation	511
D.	Training	512
E.	Incentives for Apprenticeships	513
	Selected Bibliography	513

Chapter 17

Security of Employment and Employability

Jacques Rojot 517

I.	Introduction	517
II.	The Notion of Employment Security	518
III.	The Tensions on Employment Security	519
IV.	Dismissal for Cause and Dismissal for Economic Reasons	528

V.	Company Level Provisions in Order to Reduce the Level of Dismissals	530
VI.	Legal and Contractual Limits to Economic Dismissals	533
VII.	Legal and Contractual Limits to Dismissal for Cause	534
VIII.	Government Active Manpower Policies	537
IX.	Conclusion	537
Chapter 18		
National Trade Union Movements		
	<i>Gian Primo Cella & Tiziano Treu</i>	541
I.	Introduction	541
II.	Trade Union Structure	542
	A. Craft-Occupational Unions	542
	B. White-Collar Unions	543
	C. Industrial Unions	543
	D. General Unions	544
	E. Territorial Structures	545
	F. Enterprise Unionism	547
III.	Membership and Internal Government	548
	A. Membership	548
	B. Government	549
IV.	Unions and Workplace Organizations	550
V.	Forms of Trade Union Action and Objectives	553
	A. Collective Bargaining and Political Action	553
	B. Collective Bargaining and Participation	555
	1. Collective Bargaining	555
	2. Self-Management	556
	3. Institutional Participation	556
	4. Work's Councils	557
VI.	Politics and Relations with Political Parties	557
	A. No Stable Relationship	557
	B. Dependence	558
	C. Interdependence	559
VII.	Unions and State Intervention in Industrial Relations	559
	A. Repression	559
	B. Tolerance	560
	C. Intervention	561
	D. Neo-corporatism	563
VIII.	Models of National Trade Union Movements	563
IX.	Trade Unions at the Beginning of the Twenty-First Century	568
	A. Trade Union Structure	571
	B. Membership and Internal Government	572
	C. Unions and Workplace Organizations	575
	D. Forms of Trade Union Actions and Objectives	576

E. Politics and Relations with Political Parties	579
F. Unions and State Intervention in Industrial Relations	580
Selected Bibliography	582

Chapter 19

Forms of Employee Representational Participation

<i>Marco Biagi & Michele Tiraboschi</i>	585
---	-----

I. Introduction	585
II. Forms of Employees General Representation at the Workplace:	
A Structural Analysis	587
A. Bodies Directly Linked with Trade Unions in	
Single-Channel Systems of Representation	587
B. Bodies Directly Linked with Trade Unions in	
Dual-Channel Systems of Representation	597
C. Elected Unitary Bodies	604
D. Joint Bodies	613
III. Forms of General Representation of Employees at the	
Workplace: A Functional Analysis	616
A. The Right to Share Information	616
B. The Right to Be Consulted	619
C. The Right to Decide Jointly	626
D. Collective Bargaining	627
E. Industrial Conflict	631
IV. 'Specialized' Forms of Workplace Employee Representation:	
Health and Safety at Work	633
V. Forms of Board-Level Employee Representation	636
VI. Concluding Remarks	641
Selected Bibliography	643

Chapter 20

Transnational Information and Consultation: The Recast European Works Council Directive

<i>Chris Engels</i>	647
---------------------	-----

I. Introduction	647
A. Territorial Coverage	649
B. Basic Structure	650
II. General Provisions	651
A. Scope	651
B. The Notion of Controlling Undertaking	653
C. A Positive Obligation to Provide Information	654
D. Concepts of Transnational Information and Consultation	658
E. National and Transnational Issues for Implementation	659

III.	Agreements Not Subject to the Provisions of the Respective Directives	662
A.	Pre-existing Agreements: Article 13 Agreements Original Directive (Article 14.1 (A) Recast Directive)	662
B.	Agreements Signed or Revised between 5 June 2009 and 5 June 2011: Article 14.1 (b) Recast Directive	665
IV.	Establishment of EWC or Employee Information and Consultation Procedure: Article 6 Agreements	666
A.	Central Management and a Representative Agent	666
B.	Special Negotiating Body	668
C.	Content of the Agreement	670
V.	Subsidiary Requirements	671
A.	Applicability	671
B.	Content	671
1.	Competence	671
2.	Composition	672
3.	Re-evaluation	672
4.	Meetings	673
5.	Costs and Experts	674
VI.	Miscellaneous Provisions	674
A.	Confidential and/or Harmful Information	674
B.	Operation of EWC: Spirit of Cooperation	675
C.	Role and Protection of Employee Representatives	675
D.	Relationship between Obligations under the European Works Council Directive and Other Legal Provisions	676
E.	Structural Change: Adaptation	677
F.	Implementation and Review by the Commission	678

Chapter 21

Collective Bargaining: Globalizing Economies and Diverse Outcomes

Peter Sheldon, Bernard Gan & Greg J. Bamber

681

I.	Explaining Collective Bargaining	683
II.	Historical Background	687
III.	Levels of Bargaining	691
IV.	The Parties to Collective Bargaining	697
V.	Bargaining Units and the Recognition of Bargaining Agents	699
VI.	Bargaining Processes	700
VII.	The Functions of Collective Bargaining	706
VIII.	Coverage of Bargaining	708
IX.	Content of Agreements	716
X.	Duration and Administration of Agreements	720
XI.	Collective Bargaining and Economic Policies	721

XII. Conclusions	726
Selected Bibliography	729

Chapter 22

The Law of Strikes and Lockouts

Antoine T.J.M. Jacobs

731

I. Introduction	731
A. From Crime to Fundamental Right	731
B. Crystallization into Distinctive 'Models'	735
II. The Limits of the Right to Strike	737
A. Ways of Delimiting the Right to Strike	737
B. Official Strikes versus Wildcat Strikes	740
C. The Peace Obligation	743
D. Disputes of Rights and Disputes of Interests	746
E. Other Limitations as Regards the Aim of the Strike	747
F. Procedural Restrictions	752
G. Principles of Proportionality, Fairness and so Forth	757
H. Other Collective Actions of Workers	759
I. Picketing	761
J. Public Service and Essential Services	763
III. The Effects of an (Un)lawful Strike	769
A. Liability of Trade Unions	770
B. The Wages of the Striking Worker	772
C. Disciplinary Actions against Striking Workers	774
D. The Impact of Strikes on Non-striking Workers	780
IV. The Employers' Defence and Retaliation	782
A. The Employers' Right to Keep His Business Operating	782
B. The Lockout	784
V. Litigation	786
VI. Evaluation and Conclusions	790
Selected Bibliography	796

Chapter 23

Settlement of Disputes over Interests and Rights

Alvin Goldman

799

I. Overview of Models for Disputes Settlement	799
A. Acquiescence in Unilateral Action	801
B. Governmental Fiat	801
C. Alliance Discipline	802
D. Adjudication	803
E. Voting	803
F. Negotiation	803

G.	Conciliated Negotiation	804
H.	Prestigious Exhortation	804
II.	Acquiescence in Unilateral Action	805
III.	Governmental Fiat	812
IV.	Alliance Discipline	816
V.	Adjudication	818
A.	Adjudication of Interests Disputes	819
B.	Adjudication of Rights Disputes	824
VI.	Voting	832
VII.	Negotiation	834
VIII.	Conciliated Negotiation	836
IX.	Prestigious Exhortation	840
X.	Culture: Its Role and Impact	844
	Selected Bibliography	844