



## **TRADE, LABOUR LAW AND DEVELOPMENT : A CASE STUDY OF BETTER WORK HAITI**

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## **Outline**

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*Dear colleagues, I regret that due to my ongoing involvement as an ILO expert in a law reform process in Haiti, I am unable to publish a full paper for the conference. In its place, may I kindly ask you to accept this outline. Thanks for your understanding.*

### **I. Introduction**

- a. Quote about the 1937 massacre (Derby)
- b. Labour Law's Peripheries : Three Layers
  - i. Likes Alike - From the Standard Employment Relationship (SER) outward to include analogous categories
  - ii. Internal Critique – Post- SER-Centrism - the SER creates and sustains its own margins (Vosko's historical political economy)
  - iii. Insights from development theory - Peripheries of labour law are both constitutive of the market, and constitutive of structures and relationships of inequality that weaken the core justificatory narrative of labour law in a transnational context
- c. *Thesis Statement* : In this moment of rethinking labour law's narrative and experimenting with (transnational) labour law's forms, it is crucial to historicize and particularize the nexus between trade, labour law and development.

### **II. Genesis of the ILO – IBRD Better Work program**

- a. Underlying Philosophy (Polaski) and Notion of Integrative Linkage (Kolben)
  - i. Overcoming Information Barriers? Country-wide accreditation in the textile industry
  - ii. Linking trade preferences to continuous improvement : the US and the WTO

- iii. Reaffirmation of the importance of local labour law
  - iv. Governance Experimentation - Regulatory Irritants (Teubner)?
- b. From Better Factories in Cambodia to Better Work in selected countries worldwide
    - i. Putting comparative advantage to the test
    - ii. The externalities
    - iii. What is not measured, what cannot be measured...

### **III. Better Work Haiti**

- a. Regulatory Framework
  - i. trade preferences
  - ii. legislative framework, creation of institutions and application of laws
  - iii. the industrial parks, 'open for business'
- b. No terra nullius
  - i. History of Garment Industry-Led Development in Haiti during the Duvalier era
  - ii. The UN presence in Haiti

### **IV. Competing Models of Development in the History of Haitian Labour Law**

- a. Simultaneous ending of slavery and colonialism? Trade, labour law and 'development' legacies
  - i. Labour Regulation during the Slave Trade : The Code noir
  - ii. The Emancipation Proclamation of 29 August 1793 vs Emancipation from Below (James, Fick, Bellegarde-Smith)
  - iii. The relationship between 'emancipation', 'the land' and the construction of the other, outside country, in rural Haiti : 'le pays en dehors' (Barthelemy, Castor)
    - 1. The Haitian Revolution through Toussaint Louverture's labour alliances and labour laws
    - 2. The impact of the 1825 French Ordinance (Blancpain) and the Codes ruraux - 'State against Nation' (Trouillot) including racial, social and economic stratification
  - iv. The U.S. occupation & trade reorientations

- b. Generalizing Decolonization and Labour Law : A Labour Code for modern industrial man –
  - i. The early role of the ILO in labour law reform in Haiti (Blelloch report)
  - ii. The code that Better Work Haiti applies...

**V. Labour Realism, Legal Pluralism in the Trade, Labour Law, Development Nexus – Beyond the ‘Labour Code’?**

- a. Governance Experimentation and Institutional Interactions
  - i. Regulatory irritants as catalysts for labour institutions in Better Work Haiti’s Monitoring
- b. Governance Experimentation and Institutional Actors
  - i. Trying tripartism, *moun ap moun* : the particular legacy of stratification
  - ii. Is social dialogue possible?
- c. Labour Market Informality and the ‘rurbain’
- d. For every Better Work job... the trade, labour and migration nexus
- e. And ‘le pays en dehors’?

**VI. Conclusion: Historicizing and Particularizing Trade, Labour Law and Development**