

# CALL FOR PAPERS

## Work and Vulnerability

April 5-6, 2013

Emory University School of Law, Atlanta, Georgia

The Vulnerability and the Human Condition Initiative uses the concept of vulnerability to analyze the situation of both individuals and institutions. In the context of the employment relationship, both employer and employee are vulnerable to economic and political forces, although differently so. This workshop will explore the concepts of vulnerability and resilience in relation to the employment relationship as it is being redefined in the 21<sup>st</sup> century.

Historically, the employment relationship was defined either by individual contract or collective bargaining. Bargaining is rare at the individual level, which makes employment law an area in which “private” law has substantial public consequences. Typically there is a significant power imbalance between employer and employee in the individual contracting circumstance, but employee-protective responses to that imbalance on the part of the state are impeded by the ideologies of individualism and autonomy, as well as a neo-liberal politics of privatization, efficiency, and deference to “job creators” and capital.

Organized labor has worked to counter the power imbalance in the employment relationship through collective bargaining in some segments of the workforce and through political support of social legislation. Even non-unionized workers benefit because many employers were willing to share more of their profits with workers in order to avoid union organization and possible encroachment on their virtual monopoly of power over the workplace. However, there has been an unprecedented decline in unions' membership and power in many Western countries over the past few decades. This decline is attributed to global and domestic economic, political, ideological and institutional factors, but some weight should be given to the organization and operation of unions as factors in their decline.

Currently, Western academic thought, as well as international institutions like the ILO, tend to identify Labor-Rights with Human-Rights. This brings the state explicitly into the picture in a major way, although the power of global capital has constrained the state's provision of social and economic rights, raising the question of how to revitalize unions and other social justice organizations and demand a state more socially responsive to the vulnerabilities inherent in the workplace. Comparative projects welcomed.

### Workshop Co-conveners:

- *Martha Albertson Fineman*, Emory University School of Law, [mfinem@emory.edu](mailto:mfinem@emory.edu)
- *Richard Doner*, Emory University Department of Political Science, [rdoner@emory.edu](mailto:rdoner@emory.edu)
- *Jonathan Fineman*, Florida A&M University College of Law, [jonathan.fineman@famu.edu](mailto:jonathan.fineman@famu.edu)
- *Michal Shaked*, [mshaked1944@gmail.com](mailto:mshaked1944@gmail.com)

### Submissions Procedure:

Email a proposal as a Word or PDF document by 2/8/2013 to

[emily.hlavaty@emory.edu](mailto:emily.hlavaty@emory.edu)

\*\*Decisions will be made by February 15<sup>th</sup> 2013 and working paper drafts will be due March 25, 2013 so they can be distributed prior to the Workshop

\*\*Resources on the concepts of vulnerability and resilience at:

<http://web.gs.emory.edu/vulnerability/resources/index.html>

### Workshop Details:

The Workshop begins Friday at 4PM in room 575 of Emory Law School (1301 Clifton Rd, Atlanta, GA), followed by dinner in the Hunter Atrium. Panels continue on Saturday with breakfast at 9:00 AM. Lunch also will be provided.

### Topics may include:

- \*\*To the extent that the social contract addresses our shared vulnerability, what specific aspects directly address labor and employment?
- \*\*What are the specific vulnerabilities of employees? Employers? How do their distinct vulnerabilities interrelate?
- \*\*What are the legal and political implications of the identification of Labor-Rights with Human-Rights across nations?
- \*\*To what extent should the state and public concerns be involved in regulating the private workplace outside of basic health and safety issues?
- \*\*How much energy should be channeled into making the state put its considerably sized thumb on the scale to even out the playing field, giving employees more leverage in employment contract negotiations?
- \*\*How should the employment relationship be understood in our global, neo-liberal times?
- \*\*In view of the diversification of the labor market in a “post-fordist” era (the transformation from mass production to flexible production), how have our lives as workers and consumers been transformed along with the workplace?
- \*\*How do globalization, changes in production, and transformations in the workplace affect changes in regulatory state capitalism in Western societies and what alternative economic systems are emerging in other countries?
- \*\*Can we still talk about “employees” as a generality? Or should we distinguish between categories and groups of workers? If so, how?
- \*\*What kinds of legal protections for employees as a group or class are needed? What legal protection is possible?
- \*\*In a society like the US in which corporations and pro-corporate politics greatly influence rules that govern employer/employee relations, how can employees be empowered and their vulnerabilities addressed on a par with those of capital and business?
- \*\*How might the idea of the union or social collective be redefined and how can the entities that emerge (traditional or reinvented) gain support to, not only be tolerated, but facilitated in the 21<sup>st</sup> century?