Introduction to Symposium on “The Future of US Labor Law”

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Dating back to at least the mid-1970s, many labor relations/labor law scholars, union officials and union activists have increasingly criticized the inadequacies of US labor law in protecting employees' rights to participate in collective action. These parties have argued that the original intent of the 1935 National Labor Relations Act (NLRA), also popularly known as the Wagner Act, has been subverted by the Act's amendments, as well as by a National Labor Relations Board that has been ineffective in preventing the occurrence of illegal employer activities which has successfully discouraged employees from organizing unions and engaging in collective bargaining. The Labor Reform Act of 1977, which, if passed, would have imposed punitive penalties on employers who committed such unfair labor practices, was filibustered to death in the US Senate. With Barack Obama's election to the US presidency in 2008, many unions and labor activists believe that the time is right for launching a major drive to reform US labor legislation through the passage of the Employee Free Choice Act (EFCA), a law which would make it easier for employees to organize unions. Writing in February 2009, the future of EFCA has yet to be determined although Republican Party legislators appear committed to mobilizing all of their resources to ensure the bill's defeat.

Regardless of what happens to EFCA, at the end of the twenty-first century's first decade, an examination of the future of US labor law is merited due to the political and economic changes that have occurred in the US since the passage of the landmark NLRA nearly 75 years ago. This symposium contains essays by three of the most distinguished labor law scholars in the US as well as a short piece by an international management scholar. In the first essay, Theodore J. St. Antoine, James E. and Sarah A. Degan Professor Emeritus of Law at the University of Michigan Law School, argues that even if labor law reform is implemented in the US, the secret ballot should remain in effect, in some form, for union certification elections while compulsory arbitration should only be utilized in special cases. Additionally, antidiscrimination legislation should be expanded to include nonemployees while wrongful terminations should be proscribed. Ellen Dannin, Fannie

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Weiss Distinguished Faculty Scholar and Professor of Law at the Pennsylvania State University Dickinson School of Law, contends, in the second essay, that labor must fight to restore the original provisions of the NLRA which would be a crucial step for strengthening labor's rights. Katherine V. W. Stone, Professor of Law at the UCLA School of Law, in her essay discusses how the current labor and employment laws fail to tackle the problems confronting the early twenty-first century workforce while proposing changes which would address these concerns. Finally, Dr. Charles Tackney, Associate Professor in the Department of Intercultural Communication and Management at the Copenhagen Business School, argues that US labor law should be reformed through allowing the formation of works councils in collective bargaining agreements.

Other symposiums on important employment relations topics are planned for future issues of the *Employee Responsibilities and Rights Journal*. If any of the journal's readers have suggestions for symposiums on specific topics, please do not hesitate to contact me. I hope that you enjoy this symposium and find it most illuminating.

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