

Relations industrielles Industrial Relations



Fairness at Work: Federal Labour Standards for the 21st Century, by Harry ARTHURS, Ottawa: Publications Services, Human Resources and Skills Development Canada, 2006, 302 pp., ISBN 0-662-44159-1 (also available in French as *Équité au travail : des normes du travail fédérales pour le XXI^e siècle*, and on-line at <http://www.fls-ntf.gc.ca>)

Gerald Hunt

Volume 63, Number 1, Winter 2008

URI: <https://id.erudit.org/iderudit/018131ar>

DOI: <https://doi.org/10.7202/018131ar>

[See table of contents](#)

Publisher(s)

Département des relations industrielles de l'Université Laval

ISSN

0034-379X (print)

1703-8138 (digital)

[Explore this journal](#)

Cite this review

Hunt, G. (2008). Review of [*Fairness at Work: Federal Labour Standards for the 21st Century*, by Harry ARTHURS, Ottawa: Publications Services, Human Resources and Skills Development Canada, 2006, 302 pp., ISBN 0-662-44159-1 (also available in French as *Équité au travail : des normes du travail fédérales pour le XXI^e siècle*, and on-line at <http://www.fls-ntf.gc.ca>)]. *Relations industrielles / Industrial Relations*, 63(1), 174–176.
<https://doi.org/10.7202/018131ar>

Tous droits réservés © Département des relations industrielles de l'Université Laval, 2008

This document is protected by copyright law. Use of the services of Érudit (including reproduction) is subject to its terms and conditions, which can be viewed online.

<https://apropos.erudit.org/en/users/policy-on-use/>

Érudit

This article is disseminated and preserved by Érudit.

Érudit is a non-profit inter-university consortium of the Université de Montréal, Université Laval, and the Université du Québec à Montréal. Its mission is to promote and disseminate research.

<https://www.erudit.org/en/>

Subsector Bargaining Assn. c. Colombie-Britannique de 2007, dans lequel le droit international du travail fait amplement partie de l'argumentaire –, la présente étude, qui traite de bien d'autres aspects

du sujet, alimente d'une façon relevée et méthodique la réflexion.

PIERRE VERGE
Université Laval

Fairness at Work: Federal Labour Standards for the 21st Century,

by Harry ARTHURS, Ottawa: Publications Services, Human Resources and Skills Development Canada, 2006, 302 pp., ISBN 0-662-44159-1 (also available in French as *Équité au travail : des normes du travail fédérales pour le XXI^e siècle*, and on-line at <http://www.fl-s-ntf.gc.ca>)

Fairness at work is a topic that never goes out of style. Whether it goes by the label of organizational justice, equality at work, or workplace equity, it is something that most Canadians covet, and a subject that academics across several disciplines love to study. Even though fairness in the workplace is a multidisciplinary topic, its legal underpinnings are of particular interest and vital importance. As a result, Harry Arthurs recent review of Part III of the Canadian Labour Code (CLC), which establishes labour standards for workers under federal jurisdiction, and his report on how these standards might be improved to meet the demands of the 21st century, are a welcome addition to the literature.

Arthurs was appointed in October 2004 by the Minister of Labour and Housing to be commissioner of a comprehensive review of Part III of the CLC. There were modifications to Part I of the Code (Industrial Relations) in 1999 in an attempt to modernize and streamline the collective bargaining process, and Part II of the Code (Occupational Safety and Health) was overhauled in 2000. Arthurs' commission was set up to complete the process of modernizing the remaining part of the Code.

Arthurs published his report in 2006. He was aided in his review by a panel of academic experts, a panel of professional experts, and a commission secretariat. In addition, two academic round-table discussions were organized along

with several public town hall meeting. In total, the commission amassed twenty-three independent research studies, nine staff research studies, and 154 briefs from chambers of commerce, unions, employer groups, advocacy organizations, and individuals.

The report is organized into 11 chapters and 9 appendices, with a total of 197 recommendations for updating federal labour standards. Chapters 1-3 provide general and background information. Chapter 4 deals with the reach of labour standards, and particularly with workers who are currently excluded from coverage such as managers and independent contractors. Chapter 5 deals with issues related to the employment contract, and Chapter 6 is concerned with the interface between labour standards and human rights legislation. Chapter 7, the longest, tackles the myriad set of issues related to work-life balance and workers' control over time. Chapter 8 covers the regulations related to termination and unjust dismissal, and Chapter 9 deals with compliance. Chapter 10 covers vulnerable workers. Chapter 11 steps back from an assessment of current rules and regulations to consider how a re-jigged set of labour standards could make a positive contribution to the Canadian economy. The first 8 appendices provide details about the commission and its work, and Appendix 9 offers a number of technical recommendations that were deemed not to involve major issues of principle or policy.

Arthurs' report was commissioned to respond to the changes that have taken place in the economy and workplace since Part III was enacted in 1965. He rightly acknowledges that demographic changes (more women, more minorities, aging workforce, etc.), new technology, dual-career families, and a heightened focus on work-life balance issues, in concert with growing international integration, deregulation, increased competition, and a shift toward a knowledge-based economy, have combined to reshape the needs, values and expectations of workers, employers and governments (p. x).

Organized labour has since its beginnings been concerned with the regulation of work time. Many of the earliest demands voiced by the labour movement had to do with such things as work hours, overtime, breaks, rest periods, leaves, holidays and vacations. Arthurs points out that about half of Part III currently deals with these sorts of issues, and almost two-thirds of the submissions he received addressed the regulation of working time (p. 108). Chapter 7, dealing with control over work time, has a total of 72 recommendations, far more than any other topic covered. Although some of these recommendations are for maintaining the status quo (such as the current 8-hour workday, 40-hour work week with a maximum of 48 hours), most of the recommendations are for new rules. Among other things, the report recommends: more flexibility in rules governing maternity, parental and compassionate leave; the right to refuse overtime; more individual accommodation concerning hours and location of work; increased vacation entitlements; more latitude for workers to respond to emergency situations. Arthurs side-steps some of the financial implications of these recommendations, suggesting that the competing interests of workers and employers related to work time would need to be resolved outside the context of labour standards and the employment

relationship. He is probably right in this regard, but it would have been useful for him to put forward a few ideas for public policy change since it is bound to be an area where employers see a drain on their finances if workers are at work less time or with less predictability.

In Chapter 10, Arthurs notes that federally regulated workers tend to be better paid with better working conditions than their counterparts at the provincial level, but that there are still significant numbers that can be categorized as "vulnerable." One interesting observation he makes is that there are concentrations of vulnerable workers in the male-dominated sectors of road transportation, courier services and grain handling, a characteristic somewhat unique to the federal domain. Among the recommendations he proposes for improving the lot of vulnerable workers is to pay part-time and temporary workers the same pay and offer the same benefits as their full time counterparts. He also calls for the establishment of a code of conduct for temporary placement agencies.

One of the more controversial recommendations he makes is for the re-introduction of a federal minimum wage. Rather than an exact amount, he recommends that a new national minimum wage should be benchmarked to the low income cut-off index with automatic adjustments every year or two (p. 249). This represents a significant upward thrust, and in order to prevent dislocation of local labour markets, he recommends it be introduced in two phases over a period of several years.

Fairness at Work achieves its goal to provide a comprehensive review of the current provisions in Part III of the CLC and to recommend legislative and non-legislative options for its modernization. It is well written, argued, and researched. It will be of considerable interest to labour scholars, lawyers, economists, students, unions, and worker advocacy

groups. Still, it gets a bit tedious, and would require a significant commitment to be read cover to cover. However, the report's intelligent chapter organization, along with its succinct and excellent executive summary, means readers can get the information they want quickly and easily.

Arthurs report sought to find a "sensible and practical balance between the positions advanced by worker advocates and those advanced by employers" (p. 17). However, my guess is that proposals such as a much higher national minimum wage, significantly increased flexibility for workers to control their work time, enhanced protections and benefits for agency, temporary, and part-time workers, and improved benefits for workers in non-standard employment relationships, will lead many employers to believe the report's recommendations, if enacted, would tilt the balance in favour of workers.

Perhaps the biggest problem with the report is that it could easily end

up a "dust collector." The report was commissioned in 2004, and since then, there has been a major change in the Canadian political landscape. The current Conservative government lead by Prime Minister Stephen Harper has not indicated any interest in revisiting Part III of the CLC. And, many of the ideas in this report would almost certainly be interpreted as too "liberal" or too "labour-oriented" for big and small "c" conservatives. Nevertheless, many of the recommendations in the report deal with the need to tidy-up the standards, and it is conceivable that a number of changes could be undertaken by the HRSDC without legislative initiatives.

Part III of the CLC is out-of-date and does need an update. Whether the ideas put forward in this report form the basis of revisions remains to be seen. At the very least, the report provides the basis for and catalyst to continuing discussion and debate.

GERALD HUNT
Ryerson University

Collective Bargaining on Working Time: Recent European Experiences,
edited by Maarten KEUNE and Bela GALGÓCZI, Brussels: ETUI-REHS, 2006,
290 pp., ISBN-10: 2-874520-14-4.

The relationships between work and time have become increasingly complex in recent decades, with shifts away from standard working hours, the growth in nonstandard employment, and an increased blurring of boundaries between work and non-work time definitive of new working time patterns. In particular, pressure for employer-oriented "flexibility"—through either demands for longer hours or increases in part-time and temporary employment contracts—is driving key working time transitions.

Working time has historically been a central issue around which unions organized and bargained collectively. In the 19th century, unions in both

North America and Western Europe organized to regulate the length of the working day. In the post-World War II era, collective bargaining contributed to the normalization of the standard workweek, with additional compensation for overtime hours, in unionized sectors of industrialized labour markets. Through the 1980s and 1990s, however, an employer-led offensive to restructure the organization of work placed labour movements on the defensive, and altered the context in which unions have sought to regulate working time. As the impacts of working time change are connected to job quality, employment security, and labour market equality, unions have struggled to use collective bargaining to