

CONTENTS

<i>Preface</i>	xi
<i>Table of Abbreviations</i>	xv
<i>Table of Cases</i>	xix
1. Does Transnational Labour Regulation Matter?	1
1. Aim and scope of this book	1
2. Labour in the new global economy	5
3. The dilemmas of labour laws	9
4. The case for transnational regulation	13
2. The Effectiveness of International Labour Standards	25
1. Origins 1818–1919	25
2. Foundation and formative years of the ILO 1919–46	29
3. Decolonisation and the Cold War	33
4. Challenges to universality	35
5. Does the supervisory machinery work?	47
6. New directions: fundamental rights and decent work	56
3. Privatising Regulation: Codes, Agreements, and Guidelines	69
1. The shift from public to private regulation	69
2. Corporate codes and labels	72
3. Trade unions, NGOs and collective agreements	76
4. The OECD Guidelines and the ILO Tripartite Declaration	78
5. Who wins in the ‘race to the top’?	85
4. Unilateral Social Clauses	89
1. Introduction	89
2. ‘Aggressive unilateralism’: US trade policy	91
3. Effects on labour rights	93
4. Undermining the rule of international law?	94
5. Ineffective procedures?	96
6. Protectionist and political motives?	100
7. ‘Soft unilateralism’: the EU’s generalised system of preferences	101
8. US and EU compared	105

5. Social Clauses in Bilateral and Regional Agreements	107
1. Introduction	107
2. The North American Agreement on Labor Co-operation	108
3. Variations in later Free Trade Agreements	114
4. The effectiveness of the emerging American model	118
5. EU external trade agreements	122
6. Winners and losers	126
6. The WTO and Social Clauses	129
1. Introduction	129
2. Reconciling social clauses with WTO agreements	133
3. The principle of non-discrimination	135
4. An illustration: social labelling	137
5. Article XX exceptions	141
6. Other mechanisms for social clauses?	144
7. The integration of developing countries	145
8. Would WTO sanctions work?	148
7. Labour Laws Beyond Borders	151
1. Introduction	151
2. The applicable law	153
3. The appropriate forum	158
4. Posted workers and social dumping	165
5. Cross-border transfers of undertakings and offshore outsourcing	172
6. Collective bargaining and employee representation	178
7. International solidarity action	186
8. Conclusion: the limits of extra-territoriality	189
8. Negative and Positive Harmonisation in the EU	193
1. Introduction	193
2. The making of the EU social and employment policy	194
3. Negative harmonisation	211
4. Positive harmonisation	218
9. New Methods of Integration in the EU	225
1. The open method of co-ordination	225
2. Social dialogue	230
3. Fundamental rights	238
4. Conclusions	247

10. The Comparative Advantages of Labour Laws	251
1. Introduction	251
2. Economic models	253
3. Political models	256
4. Seeking comparative institutional advantage	266
5. Re-inventing transnational labour regulation	271
<i>References</i>	277
<i>Index</i>	295

BOXES

1.1 Terminology.....	4
1.2 Offshore outsourcing	7
1.3 TNCs on the move in Europe	8
1.4 Flexibility and the right to strike in South Africa	12
2.1 ILO machinery for the formulation of international labour standards.....	36
2.2 Britain and the ILO	38
2.3 The CEACR and CCAS	49
2.4 The case of Myanmar (Burma).....	51
2.5 The CFA and FFCC	52
2.6 The ILO Declaration of Fundamental Principles and Rights at Work	58
3.1 OECD Guidelines: Employment and Industrial Relations	79
3.2 The ILO Tripartite Declaration: Summary	81
5.1 The <i>Pesca Union</i> case.....	112
6.1 World Trade Organisation	131
6.2 Guide to the WTO Agreements	132
7.1 The Cape Asbestos litigation.....	159
7.2 The Westland affair	174
7.3 <i>Monterosso Shipping Co Ltd v ITF</i>	180
8.1 The European Union.....	195
8.2 EU Institutions	196
8.3 EU legislation.....	197
8.4 Articles 136 and 137(1) EC (as amended)	221
9.1 The Charter of Fundamental Rights of the Union	246
10.1 The BJ & B case in the Dominican Republic	276

TABLES

2.A Classification of countries according to the ratification of all conventions and the record of observations of non-compliance by the Committee of Experts (1989–2003)	40
2.B ILO ratifications compared by human development index	43
4.A ILO and US standards	95
5.A NAALC ‘Labor Principles’ and FTA ‘Internationally recognised worker rights’	108
5.B Comparison of NAALC and other FTAs	118
7.A Host country standards applicable to posted workers.....	170
9.A Consultations with social partners 1993–2004.....	233

<http://www.pbookshop.com>