

Brishen Rogers

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CURRENT ACADEMIC POSITION

Temple University Beasley School of Law

Granted tenure in 2016
Associate Professor (2012-present)
Assistant Professor (2010-2012)

Courses: Torts, Employment Law, Labor Law, Employment Discrimination, International and Transnational Labor Law, Seminar on Advanced Issues in Labor Law, Practicum on Labor/Employment Law Issues

Selected Committees: Colloquium (current chair); Appointments (three times, including as chair); Clinical Appointments (twice); Sheller Center for Justice steering committee; Executive Committee; Strategic Planning Committee

OTHER ACADEMIC POSITIONS

Washington University in St. Louis Law School, Visiting Professor, Spring 2017
European University Institute, Florence, Italy, Braudel Fellow, Spring 2017
Harvard Law School, Climenko Fellow and Lecturer in Law, 2008-2010

OTHER APPOINTMENTS AND MEMBERSHIPS

Visiting Fellow, Roosevelt Institute (2018)
Core Contributor, Law & Political Economy Blog (lpeblog.org) (2018-present)
Member, The Labor Law Group, (2017-present)
Member, editorial board, Employee Rights & Employment Policy Journal (2018-present)
Member, editorial board, *Economia & Lavoro* (2018-present)
Core Faculty, Harvard Law School Institute for Global Law & Policy (2012-2016)

EDUCATION

J.D., *cum laude*, Harvard Law School, 2006
President, Labor and Employment Law Project
Co-founder and co-editor-in-chief, UNBOUND: HARVARD JOURNAL OF THE LEGAL LEFT

B.A., *with high distinction*, University of Virginia, 1998
Honors: Phi Beta Kappa, Echols Scholar, Raven Society, Sorenson Prize

Co-founder and co-editor-in-chief, Critical Mass (progressive journal)

BOOKS

WORK LAW: CASES AND MATERIALS, 4TH ED., with Marion Crain, Pauline Kim, and Michael Selmi, (Carolina Academic Press, *forthcoming* 2020)

RETHINKING THE FUTURE OF WORK, (MIT University Press, *forthcoming* 2020) (assessing impact of new information technologies including robotics and AI on labor markets and their regulation, proposing appropriate legal reforms)

ARTICLES AND BOOK CHAPTERS

The Future of Work and Labor Markets, in MARKUS DUBBER ET AL, EDS., OXFORD HANDBOOK OF ETHICS OF AI, (*forthcoming* 2020)

Basic Income, Worker Power, and Employer Power, __ COMP. LAB. L. & POL'Y J. ____ (*forthcoming* 2019) (invited symposium piece, arguing that unconditional basic income would do little to increase workers' bargaining power)

Can Workers Organize Through Social Media?, __ INT'L J. OF COMP. LAB. L. & INDUS'L RELN'S ____ (*forthcoming* 2019) (peer-reviewed, arguing that weak legal protections for collective speech and action limit workers' ability to organize through social media)

Fissuring, Data-Driven Governance, and Platform Economy Labor Standards, forthcoming in DAVIDSON & INFRACA, EDS., CAMBRIDGE HANDBOOK OF THE LAW OF THE SHARING ECONOMY, (*forthcoming*, 2018) (tracing how platform economy firms are altering low-wage labor markets)

Protecting Concerted Action Outside the Union Context, (with Simon Archer), 20 CANADIAN LAB. & EMP. L.J. 141 (2017) (*peer reviewed*, proposing to extend concerted action protections modeled on NLRA Section 7 to Canadian workers who are not seeking to unionize)

Employment Rights in the Platform Economy: Getting Back to Basics, 10 HARV. L. & POL'Y REV. 479 (2016) (arguing that existing definitions of employment can be interpreted to cover platform economy workers such as Uber drivers)

Libertarian Corporatism is not an Oxymoron, 94 TEXAS L. REV. 1623 (2016) (from symposium on Constitutional Law and Economic Inequality) (outlining new model of sectoral bargaining consistent with recent case law on workplace freedom of association)

Law and the Global Sweatshop Problem, in RICHARD P. APPELBAUM AND NELSON LICHTENSTEIN, EDS., ACHIEVING WORKERS RIGHTS IN THE GLOBAL ECONOMY (Cornell U.P., 2016) (proposing model of transnational collective bargaining to raise labor standards in global value chains)

Three Concepts of Workplace Freedom of Association, 37 BERK. J. EMPL. & LAB. L. 177 (2016) (using debates over agency fees to trace three different jurisprudential approaches to workplace freedom of association)

The Social Costs of Uber, 81 U. CHI. L. REV. DIALOGUE 85 (2015) (by invitation) (considering impact of Uber on workers rights, discrimination, safety, and privacy).

- Cited in advisory opinion of Advocate General Szupnar to Court of Justice of the European Union, *Asociacion Profesional Elite Taxi v. Uber Systems Spain SL*, 11 May 2017, available at <http://curia.europa.eu/juris/documents.jsf?num=C-434/15>

Justice at Work: Minimum Wage Laws and Social Equality 92 TEX. L. REV. 1543 (2014) (developing normative defense of minimum wage laws rooted in liberal egalitarian theory)

- Cited in *Dynamex Operations West., Inc. v. Superior Ct. of Los Angeles*, 4 Cal. 5th 903 (Cal. 2018) (landmark opinion expanding definition of employment under California law)

What Does Social Equality Require of Employers: A Response to Professor Bagenstos, 112 Mich. L. Rev. F.I. 83 (2013) (considering role of social equality ideals in employment law)

Passion and Reason in Labor Law, 47 HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW 313 (2012) (arguing that union organizing involves alteration of workers' preferences, and defending such preference-shaping as consistent with commitments to individual autonomy)

- Reviewed by Matthew Bodie in JOTWELL <http://worklaw.jotwell.com/2013/05/>

"Dead Man's Town" – Violence and Legal Interpretation in Local 1330, 7 UNBOUND: HARV. J OF THE LEGAL LEFT 83 (2011) (invited symposium piece)

"Acting Like A Union": Protecting Workers' Freedom of Choice by Promoting Workers' Collective Action, 123 HARV. L. REV. F. 38 (2010) (responding to article by Professor Benjamin I. Sachs, arguing that workers can only freely choose unionization if freed from various legal constraints on concerted activity)

Toward Third Party Liability for Wage Theft, 31 BERK. J. EMP. & LAB. L. 1 (2010) (arguing that large brands and other major firms should be liable for certain wage/hour violations by their suppliers and contractors)

- Reviewed by Michael Fischl, *Really Sticky Default Rules*, JOTWELL December 13, 2010, <http://worklaw.jotwell.com/really-sticky-default-rules/>

The Complexities of Shareholder Primacy: A Response to Sanford Jacoby, 30 COMP. LAB. L. & POL'Y J. 95 (2008)

SELECTED NON-ACADEMIC PUBLICATIONS

REBUILDING WORKER VOICE IN TODAY'S ECONOMY, ROOSEVELT INSTITUTE (2018) (arguing that labor law is a leading cause of economic and political inequality, proposing set of comprehensive reforms) (with Kate Andrias)

The Limits of Antitrust Enforcement, BOSTON REVIEW (May 2018)

What the Minimum Wage Debate Gets Wrong, BOSTON REVIEW (August 2017)

Op-ed, *A New Type of Labor Law for a New Type of Worker*, NEW YORK TIMES, (Sept. 4, 2017) (with William Forbath).

Basic Income in a Just Society, THE BOSTON REVIEW FORUM, (May 1, 2016) (lead article)

How Not to Argue for a Basic Income, BOSTON REVIEW (October 31, 2016)

Redefining Employment for the Modern Economy, Issue Brief for American Constitution Society (ACS) (October 2016) (proposing substantial expansion of definitions of employment under core federal labor/employment statutes)

BLOGGING

Posts at On Labor, LPEblog, ACS Blog, and Concurring Opinions on various labor law topics

- <https://onlabor.org/author/brogers/>
- <https://lpeblog.org/author/brishenrogers/>
- <https://www.acslaw.org/acsblog/managerial-power-financial-power-and-worker-power>
- <https://www.acslaw.org/acsblog/redefining-employment-for-the-modern-economy>
- <https://concurringopinions.com/archives/author/brishen-rogers>

SELECTED WORKSHOPS AND PRESENTATIONS

2018-2019 Academic Year

Yale Law School, Law & Political Economy Workshop (January 2019)

Yale Law School, Center for Private Law Seminar (Spring 2019)

2017-2018 Academic Year

Labor Law Group annual meeting, Denver Colorado, June 2018 (on technological change and labor markets)

Association of Promotion of Political Economy and the Law (APPEAL) workshop with Political Economy Research Institute, U.Mass. Amherst, June 2018 (on technological change and labor markets)

Rutgers-Renmin Center for Global Work and Employment, 3rd Annual Conference, May 2018 (discussant for Cynthia Estlund and Andy Stern re: merits of universal basic income)

Tel Aviv Buchman Faculty of Law, Labor Perspective to Human Trafficking Project and Safra Center for Ethics, May 2018 (lecture on minimum wages, social equality, and migrant rights)

Hebrew University, Jerusalem, May 2018 (workshop on social media and worker organizing)

Yale Law School, April 2018 (LPEBlog workshop on political economy of technology)

Saint Louis University, March 2018 (Symposium on Law, Technology and the Organization of Work)

Queens University Law School, Kingston Ontario, Douglas Cunningham Memorial Lecture in Labour Law, October 2017 (on technological change and labor markets)

University of Texas Law School, Colloquium on Human Rights and Global Inequality, October 2017 (lecture on technological change and labor markets)

2016-2017 Academic Year

Labor Law Research Network, Toronto Ontario, June 2017 (several panels on technological change and labor markets)

Keynote speaker, SERI Colloquium on Sharing Economy, Rome Italy, June 2017 (on technological change and labor markets)

Economic Security Project Design Workshop on Basic Income, Google Inc., headquarters, San Francisco CA, April 2017 (participant/discussant)

WeRobot, Yale Law School, April 2017 (commentator, projects on technological change and labor markets)

Faculty colloquium, Washington University in St. Louis Law School, March 2017 (on universal basic income)

Data and Society Workshop on digital labor, January 2017 (commentator, projects on technological change and labor markets)

Labor Law Group bi-annual meeting, Los Angeles, December 2016 (on likely impact of incoming Trump Administration on work and work law)

2015-2016 Academic Year

University of Indiana Law School Center for Law, Society & Culture, April 2016 (on technological change and labor markets)

University of Texas Law Review symposium on Constitution & Economic Inequality, February 2016 (on workplace freedom of association)

AALS Panel on “Peer-to-Peer Consumption,” New York City, January 2016

Boston Review salon on “sharing economy” and democratic mobilization, San Francisco, November 2015

Korean Development Agency conference on sharing economy, Seoul, South Korea, November 2015

Platform Cooperativism Conference, New School for Social Research, November 2015

Osgoode Law School, York University, forum on proposed reforms to Ontario union recognition laws, Toronto, Canada September 2015

International Trade Union Confederation (ITUC) conference on multinational enterprises’ responsibility for supply chain labor conditions, London, September 2015

Regulating for Decent Work Conference, International Labour Organization, Geneva, Switzerland, July 2015, on value chain governance

Harvard/IGLP Conference on Contemporary Legal Thought, July 2015

Prior to 2015-2016 (organized by topic/paper)

Law and the Global Sweatshop Problem

- Harvard Law School Institute for Global Law & Policy, June 2014
- UC Santa Barbara Conference on Achieving Workers Rights in the Global Economy, Bellagio Center, Lake Como, Italy, July 2013
- Tel Aviv Buchmann Faculty of Law, June 2013
- Harvard Law School, Institute for Global Law & Policy (IGLP) panel on global value chains and law, June 2013

Three Concepts of Workplace Freedom of Association

- Seton Hall Junior Scholars Workshop (by competitive selection), October 2014
- Seventh Annual Colloquium on New Scholarship in Labor & Employment Law, Boulder Colorado, September 2014

The Social Costs of Uber

- Fordham Law School conference on labor and the “sharing economy,” April 2015 (by invitation)

- Fourth Conference on Digital Labor, New School for Social Research, November 2014 (by invitation)
- Tulane Forum on Future of Law and Inequality, November 2014 (by invitation)

Moderator, Panel on Labor & Employment Law, ACS Regional Convening, Harvard Law School, November 2013

Retirement Security and Distributive Justice

- Invited presentation at “The Challenge of Retirement in a Defined Contribution World,” conference by University of Connecticut School of Law Insurance Law Center, April 5, 2013

Global Financialization and “The New Serfdom”

- Invited presentation at Northeastern University School of Law Conference, “Employed or Just Working: Rethinking Employment Relationships in the Global Economy” (March 22, 2013)

Justice at Work: Minimum Wage Laws and Social Equality

- Panel on Property and Labor, Perugia University School of Law, Perugia Italy, July 2013
- Global Labour Law Research Network, Inaugural Conference, Barcelona, Spain, June 2013
- Roundtable discussion including Samuel Bagenstos, William Forbath and Noah Zatz at Law & Society Annual Conference 2013
- Seventh Annual Colloquium on Current Scholarship in Labor and Employment Law, Chicago, September 2012
- ClassCrits III Conference, American University, September 2011
- Law and Society Association Conference, San Francisco CA, June 2011

Passion and Reason in Labor Law,

- Sixth Annual Colloquium on Current Scholarship in Labor and Employment Law, Los Angeles, September 2011
- UNLV Conference on Democracy in the Workplace, February 2012
- Villanova Law Faculty Workshop, March 2012

Moderator, panel on *Pedagogy: Teaching Local 1330*, Unbound Symposium, Local 1330 v. U.S. Steel: 30 Years Later. Feb 25, 2011, Harvard Law School.

Moderator, panel on *New Means of Protecting Workers Rights in the Global Economy*, American University, Washington College of Law, April 2010.

The Four-Day Workweek and the Foundations of Employment Law, Connecticut Law Review Symposium, Redefining Work: Implications of the Four-Day Workweek, October 30, 2009.

Combating Inequality in Global Supply Chains: The Case of Warehouse Workers, Conference on Work and Inequality in the Global Economy: China, Mexico and the US, Institute for Research on Labor and Employment, UCLA, Fall 2009.

Child Labor: Implications for Family Law, Family Law ‘Summer Camp’, Harvard Law School, Summer 2009.

Towards Third-Party Liability for Wage Theft

- Law and Society Association Conference, Denver Colorado, May 2009
- May Gathering conference at U.Va. Law, May 2009
- Third Annual Colloquium on New Scholarship in Labor and Employment Law, San Diego, California, October 2008

Paradoxes of ‘Free Choice’ In Contemporary Labor Law, Law and Society Association Conference, Montreal Quebec, June 2008

Financialization and Workers Rights (panelist), National Law Students Workers’ Rights Conference, October 2007

Lecture, Harvard Program on Law and Social Thought’s “Book Trouble” Series, reading Karl Klare’s *Judicial Deradicalization of the Wagner Act* April 2006

PEER REVIEW ACTIVITIES

Journals: Regulation & Governance, Geoforum, International Journal of Comparative Labour Law & Industrial Relations, Law & Social Inquiry, others

University Presses: Cornell, California, MIT, NYU, others

University Fellowships and Graduate Admissions: available on request to protect confidentiality

SELECTED MEDIA APPEARANCES

Quoted in: the Washington Post, the Wall Street Journal, National Public Radio (Marketplace, local affiliates in Philadelphia, Southern California, elsewhere), the Guardian, Bloomberg, Bloomberg Radio, Christian Science Monitor, MSNBC, Swedish Public Radio, others.

NON-ACADEMIC PROFESSIONAL EXPERIENCE

Change to Win Labor Federation, Legal Counsel, CtW Investment Group (pension advisory arm), Washington, DC, 2006-2008

Meyer, Suozzi, English & Klein, (labor law firm), summer associate, New York, NY, 2005

Office of NY State Attorney General, Intern, Investor Protection, New York, NY, 2004

Service Employees International Union, Local 32BJ, Political & Community Organizer, New York City Metro Area, 2001-2003

Progressive Minnesota/Progressive Maryland, Political & Community Organizer, Minnesota and Maryland, 1998-2001