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Review of Conflicting Commitments: The Politics of Enforcing Immigration Worker Rights in San Jose and Houston, by Shannon Gleeson

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One way to understand a social phenomenon is to interrogate the forces that come to bear on that phenomenon. Couched against the exigencies of immigration policy, Shannon Gleeson’s book Conflicting Commitments: The Politics of Enforcing Immigration Worker Rights in San Jose and Houston attempts to call out the forces that bear on geographic disparities in access to legal recourse for the undocumented immigrant worker. To this end, Gleeson, through case study, examines the localized implementation of immigrant rights enforcement between two cities with notable undocumented immigrant populations: San Jose, California, and Houston, Texas.

Gleeson’s overarching account of the recourse disparities between the two cities may be understood in terms of the varying degrees to which cultural and institutional entities assimilate under localized conditions. She charts these assimilationist dynamics mainly by examining the mandates of federal enforcement agencies, industrial relations entities, civil society advocacy groups, and national consulates.

Conflicting Commitments opens by anchoring the reader in a muted structural-change narrative of America’s post-industrial labor market. Towards the end of the twentieth century, industrial relations systems—particularly labor unions—faced immense pressure as trends towards globalization


2. See Thomas Boje & Rafael Lindquist, Labour Movement and Industrial Relations, in POST-INDUSTRIAL LABOUR MARKETS PROFILES OF NORTH AMERICA AND SCANDINAVIA 44 (Thomas Boje & Bengt Furåker eds., 2002). The structural change narrative explains the decline in unionization and, indirectly, the changes in industrial relations systems, by focusing on broad economic changes affecting the labor force. Thus the decline is tied primarily to structural change in the economy and not linked to union or management behavior.
zation and market liberalization increased. "These structural trends together with the prevailing neo-liberal market discourse . . . presented enormous problems for the trade unions." The effect of this paradigm shift was a "bifurcated" labor market, with highly specialized, highly paid professional labor on one end, a rapidly-disappearing domestic-skilled manufacturing industry in the middle, and an ever increasing army of low-skilled, low-wage labor on the lower end. This combination of a segmented labor market and diminishing middle-income industries further destabilized the influence of labor unions, which faced an attenuation both in their middle class membership and its commensurate force of sanction.

Gleeson, within this milieu of increasingly polarized wealth disparities and decline in free-market enforcement mechanisms, focuses her first chapter on the disjointed bureaucratic efforts of labor standard enforcement agencies (LSEAs) in protecting the employment rights of low-wage workers, who are often low-skilled, usually non-unionized, and disproportionately undocumented.

Gleeson, early on, is compelled to understand the employment predicaments of undocumented immigrants as an extension of structural and material forces that, at the expense of the undocumented worker, ultimately benefit segments of the domestic economy. Further, that "the structural location of undocumented workers perfectly serves and reproduces the dominant economic systems," Gleeson finds, causes the undocumented immigrant worker to be "structurally embedded" in the low-wage labor market. Gleeson, however, does not absolve bureaucratic actors in examining the litany of structural and material impediments to implementing the presumptive legal rights of undocumented worker. In fact, Gleeson, pays considerable attention to these particular concerns from the outset, setting the tone for the book.

In the second chapter of Conflicting Commitments, Gleeson looks at several legal cases in order to parse the structural dichotomy that polarizes the various bureaucratic mandates on undocumented immigrant worker

3. Boje & Lindquist, supra note 2, at 41.
4. Gleeson, supra note 1, at 32.
5. See id. at 37-38.
6. Id. at 26. The term Labor Standards Enforcement Agency encompasses the various federal enforcement bureaucracies charged with enforcing employee worker rights violations.
7. See id. at 30-32.
8. Id.
9. Id. at 33.
10. See id. at 31.
11. Id. at 37.
12. Throughout Conflicting Commitments, Gleeson addresses the roles played by federal, state and local agencies in the actualization of presumptive immigrant rights.
rights. On one side of the divide sits anti-immigration law, with its “increasingly robust immigration enforcement apparatus,” and on the other sits domestic human rights law, with its “sustained rights for undocumented immigrant workers.” At stake in Conflicting Commitments is not the apportionment of rights per se, but the actualization of extant rights for the undocumented immigrant worker. And while Gleeson, in questioning the relevance of immigration status to employee rights entitlements, acknowledges the outcome of Hoffman Plastic Compounds, Inc. v. National Labor Relations Board as an inflection point in the debate on extant immigrant worker rights, her focus on the divisive outcomes of Hoffman is ultimately most revealing. Arguing that Hoffman merely “reified an artificial distinction” between rights and remedy in the law, she describes how the case, which affirmed the illegality of employer statute violations but limited immigrant access to recourse once those statutes were violated, threatened to facilitate employee rights abuses through virtual impunity for those violations. This, according to Gleeson, created further conflict between the mandates of labor standard enforcement agencies and Immigration and Customs Enforcement (ICE) agencies. Gleeson notes how this “resulted in regional LSEAs’ steadfast adherence to agency missions . . . and evidence of a strong effort to draw a jurisdictional divide between [their] goal[s] and that of immigration enforcement.”

To be sure, the dichotomy between these two federal mandates seems to be more than a mere structural impasse. Viewed through a geo-political lens there is an extant ideological bent to the varying interpretations state LSEAs derive from federal mandates. After Hoffman, for instance, largely

15. Id.
16. Id. at 68.
18. Gleeson, supra note 1, at 71.
19. Id. at 67.
20. See id. at 71.
21. Id. at 68.
22. U.S. Immigration and Customs Enforcement agencies are mandated to enforce immigration and customs law particularly in relation to undocumented immigrants within the United States.
23. Gleeson, supra note 1, at 77.
24. State LSEAs can operate under state law and in certain cases contravene federal mandates. See id. at 76.
Democratic-leaning California’s state agencies, not only issued public statements in response to the federal declarations, “but went a step further and inscribed a firewall between immigration enforcement and worker rights into the California labor code.”

On various levels Gleeson’s *Conflicting Commitments* hinges on context, and this instance, though relatively extreme, underscores the extent to which state actors may undermine federal declarations by leveraging state specific legislation in pursuit of their own interests.

Gleeson’s account of the lack of effective advocacy is arguably determined by the extent to which institutions’ resources are misaligned. In this regard, she offers a nuanced argument for the efficient allocation of resources in impactful advocacy. On the business front, for instance, she suggests the combination of Houston’s intransigent pro-business lobby and marked restrictionist posture leads to a “tumultuous relationship between organized labor and the business community.”

Moreover, the city’s marked nativist sentiment, as evinced for instance by the “many attempts” to eliminate publicly funded immigration programs like MOIRA and an inaccessible Texas labor standards bureaucracy on the political end, “leads to a decidedly more hostile environment on both labor and immigration front[s].” All this, she posits, leads to the need for Houston officials to create “alternative pathways for immigrants who have experienced a workplace violation.” This inevitably entails “coordinating a broad set of resources that serve as an alternative to the formal labor standards enforcement system.”

Gleeson details how, in contradistinction to conditions in Houston, the immigrant-friendly climate of San Jose, combined with a long legacy of powerful organized labor, “penetrated the fabric of city and county politics.” More pertinently, she notes that San Jose’s immigrant programs have been mostly incorporated into existing departments and do not replicate existing labor standards enforcement resources already provided by the state. It is this use of “existing state channels of support” that, Gleeson adduces, has “spurred a minimalist approach to enforcement

25. *Id.*
26. *Id.* at 110-14.
27. *Id.* at 110.
28. See *Id.* at 116.
29. Gleeson describes how the City of Houston Mayor’s Office of Immigration and Refugee Affairs (MOIRA) survived various attempts by pro-business interests to eliminate its funding. See *Id.* at 111.
30. Gleeson, supra note 1, at 27.
31. *Id.* at 116.
32. *Id.* at 27.
33. *Id.* at 116.
34. *Id.* at 110.
35. *Id.* at 117 (emphasis added).
36. *Id.* at 116.
that generates little demand for city and county to invest resources in the arena of workplace rights." 37 Gleeson here presents a compelling comparative study, allowing the reader to deduce how efficiency gains derived from these distinct cultural and institutional assimilation dynamics have a significant effect on immigrant rights advocacy in particular, and, by extension, advocacy writ large.

Beyond the federal and state apparatus, Gleeson introduces and focuses on a taxonomy of approaches implemented by "civil society organizations" in dealing with localized structural discontinuities in the two cities. 38 In detailing her second case study, she describes how the approaches—namely, direct service to individuals, collective organizing with workers, and lobbying on behalf of workers 39—have been advanced by a "constellation of organizations" 40 in response to the unique conditions of their respective localities. For instance, notwithstanding Houston's "restrictionist and nativist forces," 41 Gleeson points to the success of a "largely pro-immigrant" municipal leadership in "erect[ing] several institutions in support of the city's diverse population." 42 As an example, she points to the creation of the Mayor's Office of Immigrant and Refugee Affairs (MOIRA) and its auxiliary committee, the Mayor's Advisory Committee on Immigrant and Refugee Affairs (MACIRA), 43 which facilitated "a coming together of different community organizations that in one way or another dealt with immigrant issues." 44 In a germane allusion to situational dynamics, Gleeson then highlights the countervailing effects of Houston's conservative forces on MOIRA and its ultimate consequences for institutional advocacy in Houston. 45 Gleeson's work here underscores the import of institutional assimilation to effective advocacy; as such, it not only highlights a key discontinuity between civil society organizations in the two cities, but also reinforces assimilationist ideas that have, at this point, become a recurring theme in the book. As Gleeson emphatically states, "[w]hat makes the tensions in Houston distinct from those in San Jose is the slower pace at which immigrant incorporation is taking place." 46

37. Id. at 27.
38. See id. at 28.
39. See id. at 118.
40. Id.
41. Id. at 110.
42. Id.
43. The stated purpose of MACIRA was to "assist the mayor and MOIRA in formulating and implementing programs, services, policies, and legislation that promote nonbiased and nondiscriminatory practices in the delivery of services for immigrants and refugees." Id. at 111.
44. Id. at 111 (citing personal communication, former MACIRA member, September 15, 2009).
45. See id. at 112.
46. Id. at 144.
For Gleeson, a well-honed enforcement bureaucracy and a labor-and immigrant-friendly political culture in San Jose facilitates a “well-oiled system of referrals between immigrant and labor advocates.” Decently stark—both in its contrast and portrayal—is Gleeson’s depiction of the aptly named Lone Star Legal Aid, an institutionally isolated legal services organization in Houston. Gleeson describes the heavy political pressure which came to bear on Lone Star for pursuing worker advocacy cases and its resultant decision to “all but cease pursuing employment cases,” undoubtedly exacerbating Houston’s already “considerably sparser” affordable legal counsel options. Lone Star is, arguably, a proxy for the main differences in “civil society” dynamics between the two cities. Where San Jose’s labor unions, including the Building and Construction Trades Council and the South Bay Labor Council, show solidarity by courting immigrant workers, Houston advocates must “forge unlikely alliances to affect policy change.” Whereas a robust set of government standards, along with “an extensive network of legal advocates,” supports the streamlined lawyering approach in San Jose, Lone Star—the sole provider of nonprofit legal counsel in Houston—has been pressured and disincentivized by political influence and the Texas labor code.

Gleeson does, admittedly, highlight some key victories that have emerged from Houston’s industrial relations melting pot. For instance, she singles out the work of Houston’s Justice and Equality in the Workplace Program (JEWP) and the Houston Interfaith Worker Justice (HIWJ) program, in particular, for their broader collaborative approach in creating “simultaneous integrated relationship[s]” with various advocacy actors across the bureaucratic spectrum—including the Harris County AFL-CIO, immigrant rights organizations, several Latin American consulates, major federal standards enforcement agencies, and local bureaucracies. And although Gleeson acknowledges the particularly cohesive outcomes of programs like HIWJ as distinct from San Jose’s specialization approach, she tempers the former’s broader implications with a caveat that “[t]he collabo-

47. Id. at 126.
48. Id. at 128.
49. Id.
50. Id. at 127.
51. Id. at 148.
52. Id. at 127.
53. Gleeson states: “One attorney cited the pro-business culture in Houston as an issue, as well as changes made to the Texas labor code that disincentivize worker claims for lawyers. . . . the legislature has since made it impossible to get much in the way of benefits for clients, and attorney’s fees are limited [to about $400 per case]. So from the attorney’s point of view, it’s just not worth it.” Id. at 128 (citing interview, Lone Star Legal Aid, March 3, 2006).
54. See id. at 132-48.
55. Id. at 146.
ration [in Houston] is a necessity rather than simply solidarity.” 56

Amidst the protean effects of community organization commitments, federal mandates, and structural contingencies, Conflicting Commitments’ final case study advances a multi-faceted analysis of the role of the Mexican Consulate in advocating for undocumented immigrant worker rights in San Jose and Houston. Gleeson initially charts the Mexican Consulate’s history of transnational advocacy with the United States. 57 She then focuses on the national scope of the Consulate’s collaborations with the Occupational Safety and Health Administration (OSHA), the Department of Labor’s Wage and Hour Division, and the Equal Employment Opportunity Commission (EEOC) in advocating for the rights of a myriad of industrial and agricultural immigrant workers. 58 The Consulate represents an operationally pliable entity for Gleeson. And in juxtaposing the “mostly ancillary supportive role” assumed by the Mexican Consulate in San Jose 59 with its role in Houston as a “transnational bureaucrat that fills an acute need in a bureaucratic vacuum of worker rights enforcement,” 60 she offers insight into the spectrum of synthetic strategies the Consulate might adopt both nationally and transnationally in advocating for and enforcing the rights of its nationals in various cities. 61 In this regard, the Consulate represents a “hybrid” institution: an assimilation of the strategies and resources at the advocate’s disposal.

Indeed, Gleeson’s focus on the scope of the Consulate’s transnational and national work is a helpful indicator of the extent to which the Consulate, as a stakeholder, assimilates key cultural, linguistic, and institutional resources in the interest of the rights of its undocumented nationals. Ultimately, though, the latter part of Gleeson’s case study on the Mexican Consulate is somewhat anecdotal, and, given the otherwise suggestive tone of Conflicting Commitments, Gleeson misses an opportunity to posit how the Consulate’s particular synthesis might definitively effect structural change for the undocumented immigrant worker. Granted, her project is largely a sociological survey rather than a policy proposal; however, given its synoptic tone, Gleeson’s last case study yields little by way of significant revelatory propositions. As a result, she misses an opportunity to implicitly and explicitly tie in and address various open questions in the preceding case studies. For instance, given the formal 2004 accord 62 and the limitations of the Consulate’s noninterventionist position, does partnering with LSEAs

56. Id. at 148.
57. See id. at 164-70.
58. See id. at 170-80.
59. See id. at 174-75.
60. Id. at 178.
61. Id. at 164.
62. Id. at 192.
whose state legislation is at odds with federal mandates represent a conflict of interest for the Consulate? And, if not, how can both advocates devise a strategy that bilaterally eliminates significant impediments to their respective advocacy efforts? What are the policies of the Consulate regarding the Immigration and Customs Enforcement agency, and what role, if any, does this play in the ways the Consulate approaches issues regarding its undocumented nationals? And so on.

The absence of assertive and definitive language regarding stakeholders' commitments to immigrant worker rights advocacy is, in large part, shaped by the complex federalist democracy in which such advocacy arises. Granted, the protean bureaucratic landscape makes such normative commitments difficult, and Gleeson's measured tone towards undocumented immigrant worker rights advocacy seems to reflect this fact. However, the case studies' lessons on the context-specific limitations of advocacy have the potential to be hugely informative in specific legislative and regulatory situations—not just for local and state-based advocates, but also for federal and bi-national stakeholders. Where they prove effective, the measured victories of enforcement bureaucracies and the Mexican Consulate in Houston can be useful as examples of effective advocacy strategies in structurally entrenched political landscapes. A "specialized enforcement approach," such as the one used in San Jose, can be utilized as a barometer of performance for less caustic political landscapes, while the lessons of Houston can be honed as a capacity-building tool for effective mobilization of political capital in more difficult political arenas.

If the ideas addressed here seem somewhat repetitive, it is because the structure and rhythm of the book largely compels such a reading. And although this might be viewed as a shortcoming of the book, it is simultaneously a fundamental merit of *Conflicting Commitments*. Gleeson's comparative analysis gives an ordered and coherent narrative to a vast and complex set of interrelated entities that bear on the actualization of immigrant worker rights in two very different cities. Though issues of situational contingency seem belabored at times, the fact that many of the themes are repeated should in this case be considered evidence of a strength, rather than redundancy. In any case, *Conflicting Commitments* is a thoroughly researched sociological overview of undocumented immigrant worker rights actualization and could be a valuable resource for stakeholders and rights-bearers alike.

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63. See id. at 108.
64. See id. at 202.