

MATTHEW W. FINKIN

- CURRENT POSITION:** Albert J. Harno and Edward W. Cleary Chair in Law
Director, Program in Comparative Labor and Employment Law & Policy
University of Illinois
- ADDRESS:** College of Law
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Champaign, Illinois 61820
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- PRIOR POSITIONS:** Professor of Law, University of Illinois, 1988-present;
Albert J. Harno Professor, 1993–2006; Harno-Cleary Chair, 2006–present
Professor of Law, Southern Methodist University, 1976-1988
Associate Professor of Law, SMU, 1974-1976
Visiting Associate Professor of Law, SMU, 1973-1974
Various staff positions with the American Association of University Professors (AAUP) in Washington, D.C. and New York City, 1967-1972
- VISITORSHIPS:** Visiting Professor of Law, University of Michigan, 1980-1981
Visiting Professor of Law, Duke University, Spring, 1978
- HIGHER EDUCATION:** LL.M., 1973, Yale Law School
LL.B., 1967, N.Y.U. Law School
B.A., 1963, Ohio Wesleyan University
- GRANTS AND AWARDS:** Summer Humanities Research Institute Fellow
Dartmouth College
Summer, 1999
- Alexander von Humboldt Foundation Research Prize
Federal Republic of Germany
1995
- German Marshall Fund Lecturer
Konstanz University
Federal Republic of Germany
Summer, 1990

Fulbright Professor
Münster University
Federal Republic of Germany
Summer, 1987

Research Grant, Carnegie Council on Policy Studies in Higher
Education (1975-1976) (with David Feller)

PUBLICATIONS:

BOOKS:

LABOR LAW (Foundation Press) (with Archibald Cox, Derek Bok, and Robert
Gorman) (14th ed.2006); (13th ed. 2001); (12th ed. 1996); (11th ed. 1991)

BASIC TEXT ON LABOR LAW: UNIONIZATION AND COLLECTIVE BARGAINING (West
Pub. Co.) (2d ed. 2004) (with Robert Gorman)

PRIVACY IN EMPLOYMENT LAW (Bureau of National Affairs) (2d ed. 2003); (1st
ed. 1995); (with cumulative annual supplementation)

LEGAL PROTECTION FOR THE INDIVIDUAL EMPLOYEE (West Pub. Co.) (3d ed.
2002) (with Alvin Goldman, Clyde Summers, and Kenneth Dau-Schmidt);
(2d ed. 1996) (with Goldman and Summers); (1st ed. 1989)

THE CASE FOR TENURE (Cornell ILR Press 1996) [a *Choice* magazine
“Outstanding Academic Book for 1997”]

INTRODUCTION TO GERMAN LAW (Kluwer Law Int’l 1996) (co-editor with Werner
Ebke)

THE LEGAL FUTURE OF EMPLOYEE REPRESENTATION (Cornell ILR Press 1994)
(editor)

INDIVIDUAL EMPLOYMENT LAW AND LITIGATION (The Michie Co.) (2 vols.)
(1989) (with Howard Specter)

ARTICLES AND CHAPTERS:

Life Away From Work, 55 LA. L. REV. 945 (2006).

Employer Neutrality as Hot Cargo: Thoughts on the Making of Labor Policy, 20
NOTRE DAME J. LAW, ETHICS & PUB. POL’Y 541 (2006), revised from *Is*

Non-Belligerence Hot Cargo?: Thoughts on American Exceptionalism and Social Partnership, in ARBEITNEHMER MITWIRKUNG IN EINER SICH GLOBALISIERENDEN ARBEITSWELT: LIBER AMICORUM MANFRED WEISS 507 (Armin Höland *et al.* eds., 2005).

Employee Privacy and the “Theory of the Firm”, 26 J. LAB. RES. 711 (2005).

Second Thoughts on a Restatement of Employment Law, LIBER AMICORUM REINHOLD FAHLBECK 191 (Birgitta Nyström *et al.*, eds. 2005), *reprinted in* 7 U. PA. J. LAB. & EMP. L. 279 (2005).

Gewerkschaften als Kläger: Gerechliche class action und Gruppenvertretung in der Vereinigten Staaten, ZAIS 2005, 1.

Labor Mobility in a Federal System: The United States in Comparative Perspective, 20 INT’L J. COMP. LAB. L. & INDUS. REL. 313 (2004) (with Sanford Jacoby).

Law Reform, American Style: Thoughts on a RESTATEMENT OF THE LAW OF EMPLOYMENT, in CHANGING INDUSTRIAL RELATIONS AND MODERNIZATION OF LABOUR LAW: LIBER AMICORUM MARCO BIAGI 139 (Roger Blanpain & Manfred Weiss eds.) (2003) *pre-printed at* 18 LAB. LAW 405 (2003)

Menschenbild: The Conception of the Employee as a Person in Western Law, 23 COMP. LAB. L. & POL’Y J. 577 (2002) [Spanish monograph edition 2003]

Information Technology and Workers’ Privacy: The United States Law, 23 COMP. LAB. L. & POL’Y J. 471 (2002) [Spanish monograph edition 2003]

Die Bedeutung des Arbeitsrechts für die Wirtschaftsleistung in Deutschland aus Sicht der USA, RdA 2002, 333

Employee Representation Outside the Labor Act: Thoughts on Arbitral Representation, Group Arbitrations, and Workplace Committees, 5 U. PA. J. LAB. & EMP. L. 75 (2002)

United States Law, in ON-LINE RIGHTS FOR EMPLOYEES IN THE INFORMATION SOCIETY Ch. 16 (R. Blanpain ed., 2002) (2001 in the Japanese language edition).

Bridging the "Representation Gap," 3 U. PA. J. LAB. & EMP. L. 391 (2001)

International Governance and Domestic Convergence in Labor Law as Seen From the American Midwest, 76 IND. L.J. 143 (2001)

From Anonymity to Transparency: Screening the Workforce in the Information Age, 2000 COLUM. BUS. L. REV. 403 (2000)

Quatsch!, 83 MINN. L. REV. 1681 (1999)

Employee References: A Very Small Study in Comparative Law in Festschrift für Bernhard Großfeld 265 (Ulrich Hübner und Werner Ebke, eds., 1999)

The Law of Employee Loyalty in the United States, 20 COMP. LAB. L. & POL'Y J. 321 (1999) (with Benjamin Aaron)

Employee Privacy in Comparative Labor Law and Industrial Relations in Industrialized Market Economies Ch. 11 (Roger Blanpain and Chris Engels eds.) (6th ed. 1998)

Discharge and Disgrace: A Comment on the "Urge to Treat People as Objects," 1 EMPLOYEE RTS. & EMPLOYMENT POL'Y J. 1 (1997)

Employee Privacy, American Values, and the Law, 72 CHI.-KENT L. REV. 221 (1996) (Piper Lecture)

"Workers' Contracts" Under the United States Arbitration Act: An Essay in Historical Clarification, 17 BERKELEY J. EMP. & LAB. L. 282 (1996)

The Unfolding Tendency in the Federal Relationship to Private Accreditation in Higher Education, 57 LAW & CONTEMP. PROBS. 89 (1994)

The Road Not Taken: Some Thoughts on Nonmajority Employee Representation, 69 CHI.-KENT L. REV. 195 (1993), *reprinted in* THE LEGAL FUTURE OF EMPLOYEE REPRESENTATION 191 (M. Finkin ed. 1994)

"A Higher Order of Liberty in the Workplace": Academic Freedom and Tenure in the Vortex of Employment Practices and Law, 53 LAW & CONTEMP. PROBS. 357 (1990) *reprinted in* FREEDOM AND TENURE IN THE ACADEMY 357 (W. Van Alstyne ed., 1993)

Reflections on Labor Law Scholarship and Its Discontents: The Reveries of Monsieur Verog, 46 U. MIAMI L. REV. 1101 (1992), substantially revised from *Labor Law Scholarship: A Critical Survey*, in RESEARCH FRONTIERS IN INDUSTRIAL AND HUMAN RESOURCES 525 (D. Lewin, O. Mitchell and P. Sherer eds. 1992)

Labor Policy and the Enervation of the Economic Strike, 1990 U. ILL. L. REV. 547

Intramural Speech, Academic Freedom, and the First Amendment, 66 TEX. L. REV. 1323 (1988)

The Bureaucratization of Work: Employer Policies and Contract Law, 1986 WIS. L. REV. 733

Labor Law by Boz - A Theory of Meyers Industries, Inc., Sears, Roebuck & Co., and Bird Engineering, 71 IOWA L. REV. 155 (1985)

Revisionism in Labor Law, 43 MD. L. REV. 23 (1984)

On "Institutional" Academic Freedom, 61 TEX. L. REV. 817 (1983)

The Individual and the Requirement of "Concert" Under the National Labor Relations Act, 130 U. PA. L. REV. 286 (1981) (with Robert Gorman)

The Limits of Majority Rule in Collective Bargaining, 64 MINN. L. REV. 183 (1980)

Regulation by Agreement: The Case of Private Higher Education, 65 IOWA L. REV. 1119 (1980)

The Truncation of Laidlaw Rights by Collective Agreement, 3 INDUS. REL. L.J. 591 (1979)

Reforming the Federal Relationship to Educational Accreditation, 57 N.C. L. REV. 379 (1979)

Legislative Issues in Faculty Collective Bargaining, in FACULTY BARGAINING IN PUBLIC HIGHER EDUCATION 73-183 (Carnegie Council Series) (1977) (with David Feller)

The Supervisory Status of Professional Employees, 45 FORDHAM L. REV. 805 (1977)

The Arbitration of Faculty Status Disputes in Higher Education, 30 SW. L.J. 389 (1976)

The NLRB in Higher Education, 5 U. TOL. L. REV. 608 (1974)

Federal Reliance on Voluntary Accreditation: The Power to Recognize As the Power to Regulate, 2 J. LAW & EDUC. 339 (1973)

Toward a Law of Academic Status, 22 BUFFALO L. REV. 575 (1973) reprinted in THE CONSTITUTIONAL STATUS OF ACADEMIC TENURE (W. Metzger, ed. 1977)

Collective Bargaining and University Government, 1971 WIS. L. REV. 125 (1971)

CONFERENCE PAPERS, COMMENTS, AND REPLIES:

Representation of Employees Within the Firm: The United States Report, 54 (Supp.) AM. J. COMP. L. 395 (2006).

The Marginalization of Academic Labor Law in the United States: A Footnote to Estlund and Summers, 23 COMP. LAB. L. & POL'Y J. 811 (2002)

Modern Manorial Law, 36 INDUS. REL. 127 (1999)

Tenure in the Entrepreneurial Academy: A Reply, 41 SOCIOLOGICAL PERSPECTIVES 729 (1998)

Bonding and Flexibility: Employment Ordering in a Relationless Age, 46 (Supp.) AM. J. COMP. L. 379 (1998) (with Thomas Kohler)

Employment Contracts Under the FAA -- Reconsidered, 48 LAB. L.J. 328 (1997)

The Assault on Faculty Independence, Proceedings of the Twenty-Fifth Annual Conference of the National Center for the Study of Collective Bargaining in Higher Education 49 (1997)

Legal Craftsmanship? The Drafting of the Wagner Act, Proceedings of the 48th Annual Meeting of the Industrial Relations Research Association 381 (1996)

Regulation of the Individual Employment Contract in the United States, in THE EMPLOYMENT CONTRACT IN TRANSFORMING LABOUR RELATIONS 167 (Lammy Betten ed. 1995)

- Employee's Duty of Loyalty: An Arbitral-Judicial Comparison* in ARBITRATION AND THE CHANGING WORLD OF WORK, Proceedings of the Forty-Sixth Annual Meeting of the National Academy of Arbitrators 200 (G. Gruenberg ed., 1994)
- Academic Freedom and Church-Related Higher Education: A Reply to Professor McConnell* (with Judith Thomson), in FREEDOM AND TENURE IN THE ACADEMY 419 (W. Van Alstyne ed., 1993)
- Privacy and Personality in the Employment Relationship*, The Benjamin Aaron Annual Lecture Series on the Role of Public Policy in the Employment Relationship (1992), revised as *The Protection of Employee "Personality" in the United States*, 94 ZEITSCHRIFT FÜR VERGLEICHENDE RECHTSWISSENSCHAFT 109 (1995)
- Commentary on "Arbitration of Employment Disputes Without Unions,"* 66 CHI.-KENT L. REV. 799 (1990)
- Tenure After An Uncapped ADEA: A Different View*, 15 J. COLLEGE & UNIV. LAW 43 (1988), reprinted in THE END OF MANDATORY RETIREMENT: EFFECTS ON HIGHER EDUCATION (K. Holden and W. Hansen eds.) (1989)
- The Tenure System*, in THE ACADEMIC'S HANDBOOK 86 (A. Deneef, C. Goodwin and E. McCrate eds.) (1988) and at 136 (2nd ed.) (A. DeNeef and C. Goodwin eds., 1995)
- "In Defense of the Contract at Will" - Some Discussion Comments and Questions*, 50 J. AIR L. & COM. 727 (1985)
- Does Karl Klare Protest Too Much?*, 44 MD. L. REV. 1100 (1985)
- Creationism and Academic Freedom - A Reply*, 68 ACADEME 10 (1982)
- The Yeshiva Decision: A Somewhat Different View*, 7 J. COLLEGE & UNIV. LAW 321 (1980-81)
- The Usefulness of AAUP Policy Statements*, 59 EDUC. REC. 30 (1978) (with Ralph S. Brown)
- Contract, Tenure and Retirement: A Comment on Rehor v. Case Western Reserve University*, 4 HUMAN RIGHTS 343 (1975)

An Intervenor's Standing to Propose a Bargaining Unit: A Comment on the Vagaries of Decisional Rule-Making, 25 LAB. L.J. 392 (1974)

Faculty Collective Bargaining in Higher Education: An Independent Perspective, 3 J. LAW & EDUC. 439 (1974)

EDITORIAL WORKS:

Introduction to National Style in Labor Law Scholarship, 23 COMP. LAB. L. & POL'Y J. 639 (2002)

Introduction on Informational Asymmetries in the Labor Market, 23 COMP. LAB. L. & POL'Y J. 433 (2001)

Employment Law Seminar, The Regulation of Employee Information in the United States, 21 COMP. LAB. L & POL'Y J. 787 (2000) (edited student research papers)

Introduction to Employed or Self-Employed? The Role and Context of the Legal Distinction, 21 COMP. LAB. L. & POL'Y J. 1 (1999).

Foreword to Symposium on the Future of Employee Representation, 69 CHI.-KENT L. REV. 49 (1993), reprinted in THE LEGAL FUTURE OF EMPLOYEE REPRESENTATION 3 (M. Finkin ed. 1994)

BOOK REVIEWS:

24 LAW & HIST. REV. 459 (2006) [JURISTS UPROOTED: GERMAN SPEAKING ÉMIGRÉ LAWYERS IN TWENTIETH CENTURY BRITAIN (J. Beatson & R. Zimmermann eds., 2004)].

40 BRITISH J. INDUS. REL. 361 (2002) [K.D. EWING, HUMAN RIGHTS AT WORK (2000)]

21 COMP. LAB. L. & POL'Y J. 813 (2000) [J. CRAIG, PRIVACY & EMPLOYMENT LAW (1999) and ZUR AUTONOMIE DES INDIVIDUUMS (D. Simon & M. Weiss eds., 2000)]

53 INDUS. & LAB. REL. REV. 338 (2000) [Marc Linder & Ingrid Nygaard, VOID WHERE PROHIBITED (1998)]

50 INDUS. & LAB. REL. REV. 688 (1997) [Richard Bloch *et al.*, LABOR LAW, INDUSTRIAL RELATIONS AND EMPLOYEE CHOICE (1996)]

- 82 ACADEME 63 (1996) [Neil Hamilton, ZEALOTRY AND ACADEMIC FREEDOM: A LEGAL AND HISTORICAL PERSPECTIVE (1995)]
- 32 WM. & MARY L. REV. 1005 (1991) [P. Weiler, GOVERNING THE WORKPLACE: THE FUTURE OF LABOR AND EMPLOYMENT LAW (1990)]
- 8 INDUS. REL. L.J. 453 (1986) [THE CHANGING LAW OF FAIR REPRESENTATION (J. McKelvey ed. 1985)]
- 69 ACADEME: AAUP BULL. 41 (1983) [R. Chait & A. Ford, BEYOND TRADITIONAL TENURE (1982)], *revised and reprinted* 10 J. COLLEGE & UNIV. LAW 105 (1983-1984)
- 53 J. HIGHER EDUC. 726 (1982) [J. McCarthy & I. Ladimer, RESOLVING FACULTY DISPUTES (1981)]
- 123 U. PA. L. REV. 217 (1974) [R. Carr & D. Van Eyck, COLLECTIVE BARGAINING COMES TO THE CAMPUS (1973)]

AAUP DOCUMENTS:

- Committee Report, *Academic Freedom and Tenure: City University of New York*, 90 ACADEME 43 (Nov.–Dec. 2004) (with Debra Nails and Richard Uviller)
- Committee Report, *Verification and Trust: Background Investigations Preceding Faculty Appointment*, 90 ACADEME 113 (2004) (with Robert Post and Judith Thomson)
- Committee Report, *Academic Freedom and National Security in a Time of Crisis*, 89 ACADEME 34 (2003) (special committee member)
- Committee Report, *The “Limitations” Clause in the 1940 Statement of Principles: Some Operating Guidelines*, 83 ACADEME 49 (1996) (chairman) (with Judith Thomson, Schubert Ogden, David Tracy and Jordan Kurland)
- Committee Report, *Academic Freedom and Sexual Harassment*, 80 ACADEME 64 (1994) (with Ralph Brown, Betsy Levin, Carol Stern, and Judith Thomson)

Committee Report, *San Diego State University: An Administration's Response to Fiscal Stress*, 79 ACADEME 94 (1993) (chairman) (with Sanford Jacoby and Karen Lindenberg)

Committee Report, *The "Limitations Clause" in the 1940 Statement of Principles*, 74 ACADEME 52 (1988) (chairman) (with Schubert Ogden, David Tracy, and Jordan Kurland)

Committee Report, *The Impact of Federal Retirement-Age Legislation on Higher Education*, 64 AAUP BULL. 181 (1978) (chairman) (with Merton C. Bernstein, Peter O. Steiner, W. Lee Hansen, and others)

Committee Report, *City University of New York: Mass Dismissals Under Financial Exigency*, 63 AAUP BULL. 60 (1977) (with Ralph Brown and Burton Weisbrod)

EXTRAMURAL ACTIVITY:

SELECTED LECTURES AND CONFERENCE PAPERS:

Deutscher Führungskräfte Verband Conference, Perspectives on Corporate Governance, Berlin, Germany, December 8-9, 2006

Conference: "On Examining Privacy in the Workplace," Paul W. Hebert Law Center, LSU, Baton Rouge, La., February 9-10, 2006

Korea Labor Relations Commission and Korea Institute of Labor, Conference on Industrial Dispute Resolution, Seoul, Korea, December 5, 2005

Japan Institute of Labor Policy & Training, Conference on Individual Employment Dispute Resolution, Tokyo, Japan, December 2, 2005

58th Annual New York University Conference on Labor, New York City, May 19, 2005

The British Institute of International and Comparative Law, London, June 15, 2004 (address to the Data Protection Research and Policy Group)

4th IRRA National Policy Forum, Washington, D.C. June 20-21, 2002

U.S. Reporter, Conference on Computerization of Work and Employee Privacy, Open University of Catalonia, Barcelona, Spain, November 2, 2001 and June 7, 2002

Arbeitsrechtliche Jahresarbeitsstagung 2001, Deutsche Anwaltsinstitut, Cologne, Germany, September 28, 2001 (keynote speech delivered *in absentia* due to terrorist disruption)

28 Tagung für Rechtsvergleichung, Gesellschaft für Rechtsvergleichung, Hamburg, Germany, September 20, 2001 (paper presented *in absentia* due to terrorist disruption)

Conference on Online Rights for Online Workers in the Information Society, Brussels, Belgium, November 13-14, 2000 (paper presented *in absentia* due to illness)

University of Pennsylvania Law School, Symposium on *What Do Workers Want: Reflections on the Implications of the Freeman & Rogers Study*, Philadelphia, Pennsylvania (April 7, 2000)

Columbia University School of Law, Symposium on *The Changing Workplace in the New Millennium*, New York, New York (March 28, 2000)

Indiana University Law School, Symposium on *New Rules for a New Game: Regulating the Employment Relationship in the Twenty-First Century*, Bloomington, Indiana (September 25, 1999)

University of St. Thomas' Lecture Series on Diverse Voices in the Classroom, St. Paul, Minnesota (September 14, 1999)

27th Annual Conference, NCSCBHEP, Baruch College, New York City (April 19-20, 1999)

25th Annual Conference, NCSCBHEP, Baruch College, New York City (April 14-15, 1997)

18th Annual Kenneth M. Piper Lecture, Chicago-Kent Law School (April 9, 1996)

48th Annual Meeting, Industrial Relations Research Association, San Francisco (January 7, 1996)

Colloquium: The Role of the Contract in Future Labor Relations, The Hague (April 21, 1995)

Forty-Sixth Annual Meeting, National Academy of Arbitrators, Denver, Colorado
(June 2, 1993)

The Benjamin Aaron Lecture, Institute of Industrial Relations, University of
California at Los Angeles (April 2, 1992)

Sino-American Labor Relations Symposium, Taipei (July 13, 1992)

Industrial Relations Research Association Symposium, The Wharton School,
Philadelphia, Pennsylvania (October 5, 1991)

Symposium on Academic Freedom, University of Texas School of Law
(October 16, 1987)

The Graduate School, Duke University (January 14, 1986)

C. Dallas Sands Memorial Lecture, University of Alabama Law School
(April 14, 1983)

Industrial Relations and Labor Studies Center, University of Maryland
(March 25, 1983)

PROFESSIONAL SERVICE:

LONG TERM COMMITMENTS:

General Editor, *Comparative Labor Law & Policy Journal* (vol. 19-present)

Member, Governing Board [*Kuratorium*], Institute for Labor Law and Labor
Relations in the European Community [IAAEG], Trier, Germany (1999-
2009) (by appointment of the Minister of Education of Rhineland-
Palatinate)

Member, American Law Institute

Fellow, The College of Labor & Employment Lawyers

Member, National Academy of Arbitrators

Sometime Member of Various Standing Arbitral Panels, *e.g.* Annual Baseball
Salary Arbitration Panels (2001-2004), City of Chicago and AFSCME,
University of Minnesota Faculty/Staff Grievance Panel; listed neutral by
FMCS, AAA, NMB, ILRB, IELRB

Member, Commerce Clearing House *Labor Law Reports* Panel of Experts

Member, Editorial Board, *Canadian Labour & Employment Law Journal*

Member, Editorial Board, *Employee Rights and Employment Policy Journal*

Senior Editor, INTERNATIONAL LABOR AND EMPLOYMENT LAWS, Bureau of National Affairs Series

Member (*ex officio*), Executive Board, U.S. Branch, International Society for Labor and Social Security Law

Member, The Labor Law Trust Group

Member (*ex officio*), International Association of the Editors of Labor Law Journals

Various services on behalf of the AAUP including General Counsel (1976-1978), Chairman, Committee A on Academic Freedom and Tenure (1980-1990), and principal draftsman of briefs *amicus curiae* before the United States Supreme Court and various federal and state appellate courts

NOTABLE SHORT TERM UNDERTAKINGS:

FSVC Consultant to USAID on labor law and policy in Bosnia and Herzegovina, Sarajevo and Banja Luka, October 13–22, 2004

Member, Working Group on the Effect of New Technologies Upon the Regulation of Work, Open University of Catalonia (2001-2002)

Member, Japan-E.U.-U.S. Study Group on Labor Law in the 21st Century, sponsored by the Japan Institute of Labor and the Parker School of International and Comparative Law (1998-2000)

Member, Advisory Committee to the Project on Faculty Retirement, *published as* Albert Rees & Sharon Smith, FACULTY RETIREMENT IN THE ARTS & SCIENCES (Princeton U. Press, 1991)

SELECTED UNIVERSITY SERVICE (Illinois only):

Chancellor Search Committee; Chair, Faculty Senate Committee on Academic Freedom and Tenure; Chancellor's Task Force on Sexual Harassment Policy; Law Dean Search Committee; Provost's Advisory Committee on Endowed Appointments;

Advisory Committee to the Vice Chancellor for Research; Member of the
Governing Board, European Union Center

PERSONAL:

Born: April 7, 1943

Extended Foreign Residence: Tokyo, Japan (1946-1950); Châteauroux, France (1957-
1959); Reichenau, Germany (1995)

Family Status: Married; two sons, Ezra and Jordan