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Australian Labour Law Reform: Insights and Interpretations

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> *"The first question we should ask ourselves is: What is the purpose of comparative research? (...) First, by proposing different models and solutions for similar problems, legal comparison serves to better understand our system. (...) Becoming aware that a problem can have different solutions leads one to question the reasons for these differences. Secondly, (...) by looking at the situation in other countries, it is possible to understand the reasons for existing differences and draw insights to improve one's legal framework, assessing how certain practices work in their original context".*
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> (M. Weiss in M. Tiraboschi (a cura di), *Manfred Weiss. Legal Scholars Without Borders*, ADAPT University Press, 2021, pp. 37-38)

On 6 December 2022, the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*, was passed in Australia, which impacted Australian labour and industrial relations law in important respects. The questions posed by this reform, which are also raised by Professor Anthony Forsyth (RMIT University, Melbourne) in this special issue of the ADAPT newsletter are not only of interest to Australian labour and industrial relations lawyers and experts, but to all those engaged in work-related issues. The questions raised by the legislative change, motivated by the need to raise workers' wages in the context of rising inflation, have always accompanied the development of labour law and industrial relations: how should collective bargaining levels be structured to ensure wage growth and high levels of productivity? Who is called upon to decide on wage dynamics? How far must (and can) State intervention go in the creation and regulation of this particular right that arises from industrial relations systems?

Reflecting on these questions calls to mind the functions of labour law and industrial relations. Starting from the Australian context, one can also grasp both the differences and the similarities between the different national legal systems, which are the result of distinct legal traditions and cultures, though often dealing with similar issues.

Therefore, if the supra-company level of collective bargaining seems to be taken for granted in the continental European legal tradition – up to the point that scholars and practitioners focus more on the risks of violating the standards set by sectoral bargaining and the need to expand its coverage – it must be considered that this is not the case elsewhere. One example of this is Australia. Here, the promotion of multi-employer collective bargaining that the reform seeks to pursue shows how – in the contingency of the individual system – the issue of different levels of bargaining and their relative articulation, both in terms of business competitiveness and employee protection, come to the fore again. This is an aspect that in the Australian context emerges even more clearly as a result of the growing fragmentation of

production processes which, by creating a gap between decision-making and specific work contexts, makes company bargaining unsuitable to govern wages and working conditions in complex business relations and value chains.

Without entering into the details of the reform, this bulletin wants to provide a sketchy interpretation of the reform, thanks to the work carried out during the seminar held by Prof. Forsyth on 16 February 2023 in Bergamo, which was attended by a number of ADAPT doctoral students and researchers. It is Prof. Forsyth himself who in his paper *Reforming Australian Labour Law to Promote Multi-Employer Bargaining* guides when looking at the Australian reform, through an historical perspective that allows us to grasp its innovative scope.

Subsequently, we have decided to include legal and institutional resources to understand the main components of the Australian industrial relations system. Thus, in addition to the *Fair Work Act* and the recent reform, the websites and main online tools of the *Fair Work Commission*, which is the relevant authority on labour matters, and the *Fair Work Ombudsman*, a peculiar Australian institution that plays a key role in promoting and supervising compliance with legislation, will also be available.

A number of articles on the Australian reform are also **proposed** to facilitate understanding of the expected changes. This is followed by **some contributions and scholarly insights that address specific issues and challenges that the current transformations pose to industrial relations systems, especially in the Anglo-Saxon context, and which are also raised in the Australian debate.**

Finally, some interviews and video presentations are provided that, as ADAPT, we have carried out over the last few years, thanks to the fruitful collaboration with Prof. Forsyth, and which also enable us to become more familiar with the trade union movement in Australia, supplying a comparison with other national contexts, including the Italian one.

Hopefully, this work may be useful in stimulating reflections, which, starting from the analysis of the Australian institutional context and reform, may also affect the state of the art of labour law and industrial relations in Italy and elsewhere.

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