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***Collective Bargaining and Collective Action.
Labour Agency and Governance in the
21st Century?*** Edited by
**Julia López López.
A Review.**

Ilaria Armaroli, Paolo Tomassetti¹

1. Introduction

The book edited by Julia López López makes an important contribution to the labour law theory of collective bargaining and collective action. It is grounded on a tradition of research that sees collective bargaining and collective action as political processes whose justification and effect go far beyond the regulation of working conditions. From the beginning, the editor is clear that the legal analysis proposed “looks beyond narrow disciplinary boundaries in order to promote an understanding of changing in the world itself” (p. 1).

All the articles collected in this book are of great interest to labour lawyers and employment relations scholars researching on forefront themes that range from the implications of populism on the idea of labour law, to how traditional forms of collective action relate to new channels of labour conflict, from the internationalization of employment relations, to the coordination of collective bargaining at a decentralized level, from the challenges that refugees and asylum seekers pose to trade unions logic of collective action, to the role of collective bargaining in responding to welfare state retrenchment.

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The cross-cutting (legal) concept behind the book is solidarity. The idea of solidarity is regarded as crucial to recompose the fragmented interests in modern labour markets and societies. Solidarity is framed both as a normative goal and mean. In this connection, the declared aim of the book is “to reframe our understanding of collective bargaining to fully incorporate within it several phenomena that are rooted in the pursuit of solidarity” (p. 5). The different contributions made by the distinguished group of scholars involved in the book are meant to explain and analyze how and why solidarity can be rebuilt through collective bargaining and collective action.

2. Key Messages

The key messages of the analysis are the following. Labour law is vulnerable to populism. In times of social, political and economic upheaval, Alan Bogg and Mark Freedland argue that “it is predictable that the norms and institutions of labour law will come under great pressure and that they will be subjected to a severe populist critique” (p. 34). A pluralistic constitution based on democratic ideals should therefore be reaffirmed as a countermovement to populist narratives. Labour rights and autonomy of trade unions – they argue – should be central in this process.

Judicialization of labour conflict is a response to frontal attack to trade unions rights. According to Julia López López, “strike, protest and the judicialization of labour opposition to austerity policies have together composed the overall set of union actions to defend labour rights” (p. 46). Traditionally, there has been a linkage between labour conflict and collective bargaining. In contrast, Margarita I Ramos Quintana and Dulce Maria Cairós Barreto show how and why collective agreements are no longer considered to be determinant of labour peace. Collective disputes gain more and more independence from collective bargaining, “so the regulation of working conditions is separate from the management of labour conflict” (p. 72).

As a way to build solidarity among workers, coordination can be disentangled from centralized collective bargaining. Assaf Bondy and Guy Mundlak make an excellent contribution to show how forms of coordination can be identified at a decentralized level. “While sectoral agreements remain a useful form of coordination, they also have some disadvantages that can be partially addressed through enterprise bargaining” (p. 99).

On-demand and just-in-time work organizations have made labour more precarious. In this context, Katherine V.W. Stone is clear that new forms of collective action are necessary “to empower precarious workers and enable them to protect their livelihoods and enjoy stable and meaningful life” (p. 116). The proposals of wage insurance, shared security and a workplace sabbatical go in that direction.

Despite international forms of collective bargaining, such as the global framework agreements, are indicative of the potential for multi-level labour regulation, Tonia Novitz argues that they can be effective only if combined with the multi-level “legal matrix” of regulation that include international, regional and national law. “If we forget the significance of this legal matrix and allow this plurality of multi-level labour standards to be eroded, then it is unlikely that framework agreements can be sustained or more significantly regenerated” (p. 138).

European institutions and national governments are failing to create a more human response to refugees’ needs. Therefore, for Consuelo Chacartegui trade unions can be crucial agents to facilitate the inclusion of immigrants and asylum seekers in the labour market. Despite this, local trade unions are found to enlarge their service function via the adoption of strategies of *assistentialism* targeted to individual refugees and asylum newcomers: the interaction of this new area of individualism with the trade union collectivist inclination is considered as potentially problematic. National industrial relations frameworks are more and more affected by processes of both “vertical Europeanisation”, deriving from the progressive enlargement of EWCs’ competences especially in the field of collective bargaining, and “horizontal Europeanisation”, spurred by the increasing coordination and exchange of information between national and transnational fora. According to Sergio Canalda, these possibilities of convergence are largely attributed to the agency of labour, particularly as defined in labour geography literature.

Robust systems of labour law and collective bargaining, like the Swedish one presented by Mia Rönnmar, are under pressure from both internal and external factors. There are signs of increasing tensions and diversity within the collective bargaining systems deriving from European integration, posted work and labour market segmentation.

Alexandre de la Court focuses on how and why collective bargaining across Europe plays an increasing role in guaranteeing social protection of workers in the labour market. Despite the great potential for collective bargaining in this field, he argues that it tends “to be limited to supplementing existing systems of unemployment insurance” (p. 225).

3. Conclusion

As any original and looking-forward book can do, this one raises as many questions as it answers.

While providing a convincing narrative on the central importance of solidarity in modern societies and employment contexts, the book says little about the root causes that in the last decades have progressively led to the breakdown of the after-WWII social contract in many western jurisdictions. The overall impression is that authors are more concerned with the symptoms and effects of the problems identified, than on their root causes, thus preventing many of the great ideas advanced in this book from actually contributing to rebuild the basis for a better society. In this connection, the book only partially meets the editor and readers expectations.

Linked to this aspect, is the one on the theoretical framework in which the overall analysis is developed. Beyond the scant coordination with general theories and other existing debates in labour law doctrine, the analytical framework adopted is mainly based on legal approaches to collective bargaining and collective action. Industrial relations theory, for example, is largely neglected and this is unfortunate as many of the important issues raised could have benefit from connecting to novel research outcomes in close fields of study.

Excessive generalization is also a weakness for some contributions. Many arguments cannot be generalized to other jurisdictions. This again reflects the lack of theoretical engagements with general theories as well as the non-comparative nature of the book.

ADAPT is a non-profit organisation founded in 2000 by Prof. Marco Biagi with the aim of promoting studies and research in the field of labour law and industrial relations from an international and comparative perspective. Our purpose is to encourage and implement a new approach to academic research, by establishing ongoing relationships with other universities and advanced studies institutes, and promoting academic and scientific exchange programmes with enterprises, institutions, foundations and associations. In collaboration with the Centre for International and Comparative Studies on Law, Economics, Environment and Work, (DEAL) the Marco Biagi Department of Economics, University of Modena and Reggio Emilia, ADAPT set up the International School of Higher Education in Labour and Industrial Relations, a centre of excellence which is accredited at an international level for research, study and postgraduate programmes in the area of industrial and labour relations. Further information at www.adapt.it.

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