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Book Review: A Perspective on Labour Law (1984)

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BOOK REVIEWS

A PERSPECTIVE ON LABOUR LAW. By Ole Hasselbalch, Alan C. Neal, and Anders Victorin. Stockholm, Sweden: Almqvist & Wiksell International; London: Sweet and Maxwell; New York: Transnational Publishers; 1984. Pp. 128.

The three authors of this book are labour lawyers who bring together in this thoughtful perspective their experiences under the different industrial relations systems of Denmark, Sweden, and England. They note that labour law in these three countries represents different stages in the evolution of labour relations policy. In Denmark, for example, current labour policy reflects the presence of strong trade unions together with the effective operation of an agreement system. Policy in Sweden, however, is more the product of legislation, while in England rejection of an institutionalised role for the labour movement and the absence of any coherent employers' organisation have led to far different methods for resolving typical labour relations problems.

The authors note at the outset that this book is not a legal work in the usual sense of that term. It is not an effort to review rules and case law in the countries involved. What they attempt is to deal with the common ideas and premises which underlie regulation in these systems of industrial relations. From this perspective they seek to extract some of the core features of labour law regulation, to analyze them, and to project trends and possible lines of development. It is clear that while the focus of this effort concerns Denmark, Sweden, and England, much of what is said is relevant in the United States.

The authors begin by laying a foundation for later analytical discussion by tracing the development of the labour law systems involved. This is very well done, and it gives the reader an appreciation of the varying responses to the same social demands. The authors note that the development of modern systems of industrial relations and labour law has not been a revolutionary occurrence and that the use of the law in these fields was not an issue of principle that led to much dispute. As a matter of fact, the use of law as an instrument of regulation reflects the way in which industrial relations policy has become a part of the established democratic

governmental processes.

In this context, one of the trends explored in the book is the increase in state intervention in the collective bargaining relationship. This trend, according to the authors, presents two key problems for labour law and the collective bargaining system. The first is that the state has assumed increased responsibility for income and distribution problems which in the past were mainly the concern of the labour market parties. This was motivated by a general increase in the ambitions of the state and of politicians. The second problem is that the labour law bargaining system has proved unsuited to situations where the economy is in crisis. This means a crisis of credibility for the labour market parties, particularly in systems with centralized bargaining. This also means that bargaining will have to be conducted in part with the government and that labour market parties will have to take a more open political stance. Further effects of increased state intervention include a reduction in legal certainty for both parties and a risk to unions that they may lose their legitimation for their members.

The authors examine carefully some of the premises underlying labour policy. One such premise was the acceptance of the right to use negotiated agreements as a regulatory instrument. This resulted in a confrontational relationship between the labour market parties. At first, the authors note, this confrontation concerned narrow issues such as wages and hours, but notions of an employer's broader duties toward his employees later began to find expression in collective agreements. As employees began to realize their primary goals and as the relationship between the labour market parties achieved a secure footing, demands from employees were directed toward the new objectives of joint regulation and joint influence in daily affairs.

Demands for joint regulation over the activities of firms and calls for binding rules to restrict the firms' actions may be seen to stem from more general democratic currents within society. According to the authors, the authoritarian system of management of firms appears out of tune with a society which has been pervaded by notions of democracy and the need for a well-educated population; yet, the authors ask if such a right of joint determination would not conflict with the whole basis of the economic order upon which Western industrial societies are founded. They do not believe that interest solidarity is possible between employers and employees at the enterprise level unless employees are willing to become partners in both profits and losses.

It is interesting to note that the demand for joint determination is met in industrialized countries in various ways. In the United States, for example, pressures in this area are dealt with in the framework of the good faith bargaining requirement. In other countries, employees serve on the firm's board of directors.

All in all this book is very well done, and it presents much food for thought. I would recommend it to those who have a genuine interest in labour relations policy.

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