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Stefano Bini

Labor law, economics and regulation

Italy and Spain: comparing models in the European framework





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To my parents

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Introduction

The work here presented wishes to propose a critical and reasoned reflection about the relationship between labor law and economics in a continuously changing international scenario.

The theme can certainly be inserted among the “classic” ones, because it faces one of the most fascinating issues labor law — as a subject — places when it projects itself outside its natural conceptual perimeter.

The research object is in fact based on a critical reflection around the *vexata quaestio* of the relationship between the juridical–labor law sphere and the economic dimension of reference.

More in detail, in this general framework, we carry out a research which thrusts down its roots in an organic analysis of the theoretical positions of law and labor economics, in order to develop a synergic argument which can possibly be advantageous in both research ambits.

With the present work, we wish therefore to test the holding of the relationship between the two spheres of knowledge considered, also in the perspective of the elaboration of hermeneutic contributions useful for a possible re–conceptualization of labor law, partially imposed by the morphological change of the socio–economic contexts of reference.

Following a logical sequence, the present work is structured in five conceptually autonomous chapters, which however permeate each other and are conceived in a indissoluble unitary dimension in order to guarantee systematic coherence to the research.

In detail, moving from a careful reflection about the “crisis” of labor law considered by itself and in its interaction with economics, attention is placed on the intrinsically conflictual and dualistic nature of the subject, in its being a projection of the pair “capital/work”.

After some unavoidable methodological considerations, useful for an analytical–conceptual reflection, we then highlight the elements

of interest deriving from the comparison between and the balancing of economic and social rationality, economic factuality and juridical “evaluation”.

From a methodological point of view, the logical and scientific assumption of the research is the firm conviction that only through a systemic approach, characterized by a strong comparative and multidisciplinary framework, it is possible to carefully analyze the current structure and configuration of the relationship between labor law and economics in order to outline in particular the boundaries of future perspectives of development.

A clear reconstruction of a suitable method to rationalize the dialectic process between cognitive openness and juridical re-conceptualization is indeed inescapable.

The use of the comparison — contextualized and teleologically addressed to give the work an appreciable hermeneutic contribution — is thus considered the privileged, functional research method.

The labor law systems compared — as shown in the body of the present work — are those of Italy and Spain, because of the proximity of the regulatory paths explored from time to time and of the convergence resulting also from recent reforms.

Hence, looking at the paradigmatic institutes of the impact of the economic sphere on juridical regulations, the concrete relationship between economics and labor law is in particular considered with specific reference to the worker’s tasks (and demotion/deskilling), also as a consequence of the recent legislative reforms, which have been introduced in the two legal systems object of comparison.

In addition, special consideration is reserved to the concept of “flexibility”, to the specular notion of “security”, and to the boundaries of the concept of “flexicurity”, in the scenario of a European labor law undergoing a deep change in the search of a possible new balance.

Exactly the search of a new adjustment between the different interests involved in present-day labor law relationships finds in an axiological framework of values the natural landing of the research path here briefly presented.

In the conclusions of the present work, we propose some targeted reflections about the urgent need to “return” to the principles and the values which have represented the essence of the subject, yesterday as today.

Labor regulation, in relation to economic efficiency and to the requests of deregulation coming from the market, cannot leave aside the rediscovery of the table of values of reference and the balancing of the different interests involved.