ISLSSL YOUNG LEGAL SCHOLARS' SECTION
CALL FOR PAPERS

"Labour Rights as Human Rights"

TO THE NATIONAL ASSOCIATIONS OF
THE INTERNATIONAL SOCIETY FOR LABOUR AND SOCIAL SECURITY LAW

9th January 2024

Dear colleagues,

The 10th International Seminar on International and Comparative Labour Law will take place in Venice, at Ca' Foscari University on **3 June 2024 – 6 June 2024**.

The 2024 edition of the Seminar will be dedicated to the issue of "**Labour Rights as Human Rights**".

All Seminar's participants are invited to take an active part in the discussion from an interdisciplinary perspective. In particular, on 6th June a session will be dedicated to the presentation and discussion of the papers presented by the Young Legal Scholars of the ISLSSL. This call for paper is open also to all Young Scholars who would like to take part in the International Seminar.
Of course, the interested scholars can also submit additional perspectives of analysis, but always linked to the general theme of the Seminar. Researchers and Young Scholars from countries around the world are invited to submit original papers with new and innovative results on scientific, technical and practical experience.

1. The theoretical framework

The issue concerning labour rights as human rights has long been relevant and has been addressed several times by scholars, especially in terms of the possible assimilation of the former to the latter and in terms of the divergence between the universality of human rights and "speciality/sectorality" of labour law. This issue is nowadays under the spotlight again because labour law has undergone a general process of weakening, becoming increasingly "questionable" and subject to economic-oriented criticism in the

name of corporate and market efficiency.
On the contrary, human rights have acquired substantial prominence on a cultural level in terms of universal acceptance and extension at a global level, even if they remain affected by a general weakness. A mix between labour rights and human rights can therefore be beneficial because it may guarantee labour rights *as human rights* a more solid universalistic basis. On the other hand, human rights *as labour rights* acquire greater strength, thanks to the use of "*harder*" regulatory techniques and thanks to their implementation to positive law norms.
Therefore, moving labour law towards human rights does not mean abandoning the centrality of work as an anthropological paradigm in order to improve protections, but it means: 1. anchoring labour protections to the utter relevance of human rights, intended as a staple of democracy, 2. Getting labour law to interact with the forms of practical philosophy and problematic reasoning which ground the theories and practices aimed at giving concreteness and effectiveness to the fundamental rights of the person.

There are many advantages in considering labour rights as human rights.

First: if labour rights are human rights, the Courts must protect them with particular attention, using all the tools allowed by the national and international legal system. This trend has seen human rights being called for by the ECHR in order to guarantee fundamental rights (such as the right to strike and collective bargaining and the right to privacy) which labour law was no longer able to ensure in the face of the increasingly strong pressure exerted by economic freedoms. Even the most sensitive national courts have been following this path: the *Chambre Sociale* of the French Court of Cassation (16th December 2008) is famous for declaring art. 6.1 of the International Covenant on Economic, Social and Cultural Rights of 16 December 1966 directly applicable in domestic law. In particular, the right of every person to earn a living through a freely chosen or accepted work is opposed to the principle – found in the Commercial Code – stating that the worker, required to comply with a non-competition obligation, is deprived of any financial compensation as he is dismissed for gross negligence.
Second: if labour rights are human rights, they offer greater resistance to economic criticism of labour law in the name of economic efficiency. Treating workers below certain standards by reasons of economic efficiency is not compatible with the protection of human rights, and clashes with the sustainable development paradigm of Agenda 2030. The development of new regulatory logics and techniques that are based on rights human rights, such as *"due diligence"* on businesses and global value chains, or as the 2011 UN Guiding Principles on business and human rights (see point 2.) prove that labour will benefit from opening up to this perspective.

Third: if labour rights are human rights, the scope of labour law will tend to expand in order to protect people without social citizenship, either because protection is only meant for employees, or because citizenship is a pre-requisite in order to benefit from labour rights, as in the case of migrant workers. The Inter-American Court of Human Rights has repeatedly addressed this issue by stating that "the protection of migrants' rights is based on the principle of the inalienable nature of these rights, which all workers possess, regardless of their migrant status". Furthermore, the human rights perspective is consistent with a redesign of protections around the idea of "citizenship" also according to environmental protection. As a matter of fact, by overcoming the artificial separation between the work environment and the external environment, labour law will take responsibility for the protection of citizens, and not just the protection of workers alone.

Fourth: if labour rights are human rights, the level of their resistance and the degree of *non-questionability* increases, especially in those systems where the problem of giving up rights by order of contractual clauses is particularly serious.

Topics:
Universality of human rights versus relativism and selectivity of labour rights?
Human rights and labour rights: what connections?
Human rights and labour rights: critical profiles.
Human rights as labour rights: what benefits for labour law?
The relationship between human rights, labour rights and the economic sphere.
Human rights and the environment: what role for labour law?

2. Business and Human Rights.
Businesses undermine human rights in many ways. Moreover, business and human rights are still often seen as opposed, since the general corporate approach is to maximize profit even if that means exploiting workers worldwide. Besides, governments fail to protect business-related human rights defenders especially in the countries with a poor legislative system.
We should change this assumption by promoting a new direction, such us a positive interconnection among businesses and human rights. In fact, it is also true that sustainable business may prevent potential damage and offer space for accountability and redress. In this perspective, public action is crucial, as State regulations and policies may shape business behaviour and help ensure human rights protection. Nowadays, we can observe an evolution of the international and national framework dedicated to the relationship between business and human rights (in terms of standards, mechanisms,

challenges in the current set up, like in the case of the UN Guiding Principles or the OECD Guidelines). There are new standards and principles aimed to define a new system of responsibility for companies as in the case of the EU *Proposal for a Directive on due diligence and corporate sustainable governance*.

If we look at our recent past, much has changed. The turning point might be the 2011 UN *Guiding Principles on Business and Human Rights* (UNGP), which has strongly influenced other institutions (like OECD and European Union) and also States (in many countries there are legislative proposals for mandatory human rights and due diligence ion the part of companies, which add explicit legal duties to the "smart mix" of measures recommended in the UNGP). Moreover, different lawsuits addressing human rights violations related to labour conditions or environmental impact have also been part of advances in this area worldwide.

Topics:

- Old Problems, Future Challenges of Business and Human Rights
- Stakeholder Engagement as tool for Corporations to Respect Human Rights
- Human Rights and Environmental Due Diligence: Meaning and Actions
- The Future EU Directive on Corporate Sustainability Due Diligence:
- Human Rights and Global Value Chains. The labour Law Perspective
- Access to Justice for Corporate Human Rights Violations
- Supply Chain and Contract Clauses
- Access to Remedies
- ESG Legislation
- Risk Management and Business Negotiations
- The different regional perspective on Business and Human Rights
- Due diligence and its implications on Labour Law

3. Tools and techniques in order to implement labour rights as human rights.

There are multiple instruments in order to protect human rights in the international legal system, both through legally non-binding instruments and through international conventions. Once such instruments are enforced, they will bind the States that have ratified or have made use of them. The *European Convention on Human Rights*, intended to protect human rights, is the most relevant among them. This convention is assisted by the *European Court of Human Rights*, which addresses many issues where labour rights as well as human rights come into play. Thus, human rights and labour rights clearly have the same weight on a regulatory and jurisdictional level, in central matters such as dismissal, the protection of privacy and personal data, collective bargaining and right to strike. The role of the ECHR Court in labour law matters has

grown in recent years and has become an essential reference for the judicial protection of many social rights. How should we evaluate this trend? What are the implications on the theoretical level dealt with in point 1?

When it comes to labour rights as human rights, the issue concerning the instruments for the protection and promotion of human rights acquires greater complexity, because other specific instruments are called for. Some of these are *soft law* instruments (think of the codes of ethics and codes of conduct of multinational companies). Others are assisted by particular (commercial or economic) sanctions. For example: social clauses and green clauses in international trade treaties, or clauses that provide for the obligation to respect human and social rights in *public procurement* procedures. There are many other possible variations of a general principle of "conditionality", linked to the compliance with human and labour rights, which however are not implemented: for example a social conditionality linked to the provision of loans or financial aid by the Monetary Fund International or the World Bank. Are these effective tools? What is their meaning according to the general theme described in points 1 and 2?

Finally, we have the classic labour law instruments, such as collective bargaining, which are being "moved towards" a transnational level in order to promote human and social rights. This form of transnational collective bargaining is very interesting from the point of view of theoretical models (because it is a clear example of the use of a typically social instrument in order to protect human rights). However, it ultimately raises issues of extension of bargaining practices and their effectiveness.

Topics:

- International conventions and treaties and labour law
- The role of international labour law
- Hard/soft law in the promotion of human rights
- Codes of conduct for multinational companies
- ECHR and labour law
- The role of the ECHR Court in the protection of labour rights
- Social clauses and green clauses in international trade treaties
- Generalized system of preferences and human and social rights
- Chapters on Sustainability in International Treaties
- FTAs and social conditionality
- Transnational collective bargaining
- Global collective bargaining

Selected papers will be presented and discussed in thematic sessions, circulatedduring the meeting, and also posted on the meeting website.

INFO FOR YOUNG SCHOLARS FOR SUBMISSION OF THE ABSTRACT

Full papers or long abstracts (minimum 1000 words) in pdf format should be **submitted online** no later than **April 1st, 2024**.
Please note that paper selection has become increasingly competitive in recent years. Submissions that fully describe a complete analysis are generally more likely to be accepted than long abstracts. In particular, when submitting a long abstract, please ensure that the study and results are sufficiently described to allow comparison with full paper submissions. Each person can present only one selected paper, although multiple submissions and co-authorship are allowed.

The papers and the abstract have to be sent to the following addresses:
stefanobellomo@mmba.it, adaper@unive.it, islssl@unive.it.
The abstract's paper will be examined by the Seminar's organizers and if accepted the full paper (no more than 30.000 characters, including spaces, footnotes and appendix) has to be presented at the Session of June 6st 2024.

Presentation of the Papers - Young Scholars' Session:

During the Session of 6th June, Young Scholars will present their papers. **Scholars have the opportunity to present their papers in presence or remotely**.

Please notice that all Scholarship winners (ISLSSL scholarship; AIDLaSS scholarship; Ca' Foscari Scholaship) must write a paper for the Young Scholars' Session of the Seminar.

For any further information about this Call for paper, please contact Prof. Stefano Bellomo (stefanobellomo@mmba.it), Prof. Adalberto Perulli (adaper@unive.it) or write an email to islssl@unive.it.
For any further information about ISLSSL Seminar, please write to islssl@unive.it

ISLSSL Scientific Direction: A. Perulli, T. Treu

ISLSSL Scientific Committee: A. Perulli, T. Treu, A. Lyon-Caen, G. Casale, M. Weiss, V. Brino, B. Langille, J. Bellace, T. Novitz, J. Lopez, G. Davidov, S. Bellomo.

Warm regards
Prof. Adalberto Perulli
Prof. Stefano Bellomo