Editorial

In response to the pressures of globalisation, industrial relations all over the world are undergoing significant changes. However, national systems have responded in different ways to the challenge.

As Shelley Marshall and Richard Mitchell argue in their paper on the role of law and regulatory strategies in Australia, successive Australian national governments at both ends of the political spectrum have overseen a shift in the regulation of employment relations from one based on centralised arbitration towards enterprise bargaining. However, while many of the objectives of enterprise bargaining have been attained, in particular the goal of greater flexibility in employment, the law has been less effective in protecting the interests of workers, particularly their power to influence decision-making in the workplace. In the view of the authors, the most significant outcome of enterprise bargaining in the workplace has been the restoration of management prerogative, which was previously mediated through arbitration or the power of trade unions.

In the building services sector in Quebec, Canada, a completely different approach has been pursued. Patrice Jalette outlines the unique mechanism for the extension of working conditions that is in place there. This system results in a comparative advantage as it enables employers to achieve greater labour market stability and low-inflation wage settlements, accounting for the relatively good economic performance of the sector.

Also in China, industrial relations are changing, mainly due to the transition from a planned to a quasi-market economy. Non-conflictual working relations have been replaced by widespread labour disputes between enterprise management and workers. Analysing these changes, Jie Shen comes to the conclusion that strengthening labour arbitration is the key to improving labour-dispute management in China.

Changing industrial relations are often associated with major restructuring. This is the case in New Zealand, which has experienced large-scale redundancies over the last 20 years. In their paper Alan Geare and Fiona Edgar point out that successive legislators have been reluctant to enact specific legislation providing compensation for workers facing redundancy, and analyse the divergent case law developed by the New Zealand courts.

In the European Union, the Directive on the Transfer of Undertakings (2001/23/EC) constitutes an important legal cornerstone in the

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case of restructuring. Jonas Malmberg presents evidence to show that it is also applicable to the cross-border transfer of undertakings. However, since the Directive must be implemented under national law, different national rules are adopted for the transfer of undertakings, even if they are harmonised to some extent.

Another topical issue in the EU is that of fundamental rights. Frank Hendrickx argues in his article that the fundamental rights granted in the EU Constitutional Treaty would have a considerable impact on both EU and Member States' policies. He also outlines the development of fundamental social rights in the European Union and points to the lack of a clear and uniform approach to the fundamental rights debate in Europe. In his view a more general 'constitutionally coloured' fundamental rights pathway needs to be distinguished from the social policy track, but the two approaches have merged over the years, finding a synthesis in the Charter on Fundamental Rights incorporated in the proposed Constitutional Treaty.

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