Labour Law between Ideology and Method (Without Forgetting Values). Fireside Reflections with Massimo D'Antona and Riccardo Del Punta.*

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I gladly accepted Julia and Chelo's invitation to return to Barcelona for this reunion among friends, and I wish to begin by thanking our hosts, quoting a light but witty and profound author who wrote beautifully about aging and wisdom:

"At our age, we must seek out intelligent people and beautiful places that will inspire fresh ideas."

Barcelona certainly seems to embody these conditions—places, people… and we hope, fresh ideas. To foster this, I have chosen to engage with the thought of two scholars who have left us an abundance of fresh ideas.

I will briefly touch on important themes—ideologies, methods, and values of labour law—through a dialogue with two great scholars, dear to all of us: Massimo D'Antona and Riccardo Del Punta.

I have chosen this dialogue this dialogue as a tribute to my lasting friendship with them and in honour of their memory. . Their thoughts , still alive and stimulating, remain a source of renewed wisdom. For those able to draw from it, paves the way for the emergence of fresh ideas.

Regarding my generation (what I like to call the “baby boomer scholars generation”) and referring only to the Italian provincial context, I can say with reasonable certainty that these two scholars are those who most profoundly reflected on the nature of being a labour law jurist today, and on the meaning or horizon of labour law: that is, its disciplinary identity.

To being, I clearly state that both advocated not only for the opportunity but the necessity of a public debate on the issue of methodology.

At the end of his well-known essay on the post-positivist anomaly, Massimo asserted that, once "methodological pluralism" is embraced and applied, the selection of the methodology can no longer remain a "matter" "pragmatically reserved for the internal forum of the individual interpreter, it must instead be addressed in the public forum."

The issue of methodology, important to both Authors, serves as the prelude to the related problem of the autonomy of labour law from other disciplines, both legal and non-legal, particularly the “imperialism” of economic science (a recurring theme, especially in Riccardo's reflection).

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Il paper costituisce il testo base di una riflessione più ampia su metodo, ideologia e valori del diritto del lavoro di prossima pubblicazione in Italiano.

Furthermore, how can we graft interdisciplinary methods onto this claimed autonomy without risking excessive and uncontrolled contamination from other social sciences (the methodological opportunism Massimo spoke of)?

From an institutional perspective, this is the issue of cognitive openness and systemic closure in our field, as well as how to balance external contributions with the internal order of the labour law system.

By way of example, I recall that within the realm of labour law scholars, there is a persistent tension between love and hate towards the growing influence of civil law, due to the risk of sterile absorption of labour regulation into pseudo-universal, general contract law categories. Yet at the same time, there remains the need for conceptual control over the often chaotic regulatory evolution of labour law—a responsibility that no labour lawyer can ignore.

This conceptual and systemic control was attentively addressed by Massimo, inspired by Luigi Mengoni, in the aforementioned essay on the post-positivist anomaly of labour law and the loss of authority of the legal perspective.

Riccardo revisited this contribution multiple times, including in one of his final writings, notably dedicated to the values of labour law, reminding us that values, even when not explicitly invoked, have an extraordinary ability to permeate even the most technical legal discourse. The Italian debate on the alternative between reinstatement and compensation in cases of unlawful dismissal is a vivid example of the values' attitude to permeate the legal discourse.

Thus, as Riccardo warns us, the centrality of values in the labour law discourse cannot be reduced to a post-positivist anomaly but is instead a physiological feature of legislations in reflective societies.

However, taking this as given, I wonder—again following Massimo—how we might avoid the ever-growing risk, inherent in openness to values and external contamination, of succumbing to excessive pragmatism and the rigidity of ideological stances (which often go hand in hand).

How can we preserve—as the historian Paolo Grossi rightly points out—the authority of the discipline and its positivity without ever forgetting the historicist immanence of our field?

This ongoing problem highlights the need to distinguish between the discipline's permanent values and transient or artificial ideologies—a theoretical distinction carefully developed by Riccardo, though not absent from Massimo's reflections on the theory of the subject in labour law.

I would like to say more about ideologies.

Various, often opposing, ideologies have circulated within labour law for some time: from *retro'* or superficially updated classist and Marxist ideologies to more or less new or adapted neoliberal and contractualist ones; and more recently, identity-based ideologies—which I will discuss further on.

Ideologies, in their negative sense, are hermetically sealed black boxes designed to imprison reality within immutable pseudo-ideas. They create a sense of security for their adherents,

sparing them the effort of critical thinking, the pain of inquiry, and the uncomfortable contamination with reality, especially its harsher aspects.

Values, in contrast, permeate the discipline, especially those that are enshrined in Constitutional Charters. Unlike ideologies, values are inherently dynamic because they are shaped by historical contexts; they must be constantly renewed to avoid becoming abstract and ineffective. Otherwise, they risk becoming arid constructs that are inevitably drawn into the gravitational pull of ideologies.

Accordingly, Riccardo reminds us that labour law is a key area for the positivization of constitutional values. This process has somewhat concealed the meta-juridical exposure of the field—an exposure that Massimo, who was certainly not a legal positivist, had criticised last century as "methodological opportunism" of scholars and interpreters.

Riccardo distinguishes between traditional values— such as equality, solidarity, the right to work—and newly coined, personalised values, which I will address shortly.

The traditional theme *par excellence* is that of equality, which is regulatorily tied to the effort of combating inequality. This theme remains relevant, as economists like Piketty and more recently Milanović remind us, intersecting today with poverty and precarity issues. Labour lawyers must acknowledge this: combating inequality and new forms of poverty remains central to our agendas.

However, the discussion on equality must be updated, at least by asking—as Sen does: equality of what? Is it just income, or also opportunities and individual capabilities?

This has opened new pathways of reflection, even suggesting a renewed curvature of the discipline's paradigm. Revitalizing the language of equality implies blending it with another meta-value often neglected in the traditional labour law landscape: individual freedom.

This shift focuses the narratives not on class, group, or collective interests, but on the individual —a person whose interests are not solely utilitarian but also aimed at individual, cultural, and cognitive fulfilment through work, even in capitalist enterprises.

Thus, labour lawyers must also consider the experiential value of work—commitment, creativity, passion, talent—which, contrary to the views of libertarian Marxists like Yanis Varoufakis, is not inevitably overshadowed by exchange value and profit-making.

Rather, it can generate new, collaborative relationships extending from the enterprise—at least those embracing the sustainability paradigm—to society and the state, strengthening liberal democracy by exercising new dimensions of freedom, collaboration, and participation within the enterprises.

Here, Massimo's and Riccardo's trajectories intersect again.

Following Sen, Riccardo emphasizes personal freedom, echoing Massimo's reflections on the risks of regulatory colonization of labour law, bureaucratic oppression by welfare systems, and the democratic crisis of trade unions, particularly when they neglect their essential foundation in individual participation.

But with an unequivocal warning: the individual they envision is not the "mass man" Ortega Y Gasset described in the 1930s—a shallow figure devoid of history. Rather, they refer the a situated, rooted person who consciously builds their community of destiny within the workplace, drawing inspiration from strong theoretical insights provided by Hannah Arendt and Simone Weil, both of whom are greatly appreciated by the two Authors.

All this is relevant to labour law as it allows for a constructive approach to addressing the crisis of its collective and class-based dimensions.

In Massimo's and Riccardo's views, this crisis does not lead to cosmic pessimism (as in Umberto Romagnoli's last period works) . Instead, it is counterbalanced by a robust revival of the "theory of the subject", emphasizing —the centrality of the individual through work, even within capitalist enterprises.

They acknowledge that the conflict of group interests in pluralistic systems persists in new and challenging forms, such as platform capitalism.

Thus, the new subject-centered perspective they advocated tempers the workerist and classist vision of labour law, positively reinterpreting Romagnoli's idea of social citizenship.

This implies recognising not just workers but also businesses committed to sustainability and the creation of public value as actors of a generative conception of workplaces.

It should not concern us if workers today—also due to technological changes—find themselves in a structurally diminished position of subordination, both functionally and socio-economically. We should rather celebrate that worker can choose their employers and participate as stakeholders in the management of the enterprise.

In this vision, even irrational fears regarding artificial intelligence should be re-examined: AI represents a tremendous opportunity—though not without risks —to enhance human cognitive and operational capacities at work and beyond.

Nonetheless, this perspective is often downplayed by those, on the left, who ridicule "woke capitalism," dismissing corporate reforms towards environmental and social sustainability as mere strategies for reaffirming capital's dominance and profit-driven strategies.

They overlook the fact that twentieth-century labour law was developed to reform—not to negate or overthrow—capital, markets, and enterprises.

In this spirit of recovering labour law's personalist tradition, I have long harboured doubts about the adequacy of "the law of difference" as an alternative to the crisis of traditional collective-class-based labour law.

This scepticism arises not only from the apparent short-circuit today between identity politics and social (and environmental) policies—at least in political outcomes—but also for a deeper theoretical reason: as Yascha Mounk argues, identity syntheses—and their legal variant in "the law of difference"—are theoretical (and not just political) traps that must be critically rethought.

Thus, I follow Riccardo in reaffirming ethical universalism as the core of labour law, "centered on the worker as a person, not a commodity," and, therefore, unable to coherently treat workers or other identity groups as inherently different from others.

In conclusion, I'd like to avoid the impression of an overly irenic approach. I am fully aware that both work and labour law are gravely exposed to threats not only from surveillance capitalism but, more worryingly today, from what has been labeled "big tech fascio-capitalism" or "techno-feudalism," which, according to Yanis Varoufakis, is emerging from the death of capitalism.

In light of this unprecedented and alarming context, we must recognise that progressive liberalism (the guiding star of Riccardo's thought) and Massimo's open yet coherently social-democratic vision are no longer inevitable, irreversible achievements—neither socially nor politically—even in the West, where the stability of liberal democracy itself is no longer a given.

As the great Spanish thinker Ortega Y Gasset warned in the 1930s, liberal, Marxist, and even progressive ideas have historically failed when they abandoned the helm of history, ceased to remain vigilant, and lost agility and effectiveness:

"Progressivism stopped worrying about the future, and thus life slipped from its hands, believing the world would advance in a straight line, without deviation or retreat, installing itself in an infinite present."

With this invitation to vigilance, to avoid dramatic errors, and not to desert—first as intellectual minorities and then as jurists—I wish to close this dialogue with you and with the dear friends evoked, in a city and community that is always free and tolerant.