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"UN JOUR VIENDRA…" DIRITTO INTERNAZIONALE DEL LAVORO E DISCORSO GIURIDICO NEL PRIMO NOVECENTO

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Abstract. "Before organizing a society, law imagines it". The paradigm of the creative role played by law and legal scholarship in the making of values and models of reference is particularly apt to describe the contribution offered by the early XX European jurisprudence to the birth and the development of the international labour law. Indeed, in spite of the legal vacuum which, at that time, characterized this matter at the international level, some European jurists and politicians "imagined" a legal discipline aiming at granting an uniform protection to workers regardless of their nationality.

The making of the international labour law is the result of a complex proceeding carried out by some jurists in the early XX century, a proceeding developed with a specific timing: between the first Labour Treaties (Franco-Italian Bilateral Treaty of 1904; Berna Multilateral Conventions of 1906 on the protection of workers' health) and the institution of the International Labour Organization (Treaty of Versailles of 1919).

Analyzing the works of the European jurists interested into the new law, some focused points come out.

First, all these authors moved from the awareness of the emergence of collective interests besides the individual ones. Their doctrinal efforts pursued the objective to give a legal answer to the social questions exploded after the industrial revolution. The peculiarity of their approach lies in the fact that they framed the labour question into the transnational context, by paying great attention to the growing migratory phenomena.

Second, they held that the best way to face such new problems was to harmonize the national labour legislation through the adoption of uniform multilateral conventions on the protection of workers' rights. In this way it could have been achieved the further goal to avoid economic competition among countries.

Third, they followed a fairly multidisciplinary method. In particular, they resorted a) to the domestic scholarly reflection on the private law

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labour contracts; b) to the new tendencies of the international law; c) to the political and institutional debate on labour issues.

Fourth and finally, the novelty of the subject compelled these authors to find some innovative solutions to conceptualize it. Different kind of innovative legal proceedings and reasoning entered the new discipline and acquired a strong experimental feature, both in relation to the science of international law and in relation to the traditional categories of private law, against which the new discipline at times almost seemed to take an attitude of defiance.