

Book Review

Mordy Bromberg and Mark Irving (eds), *Australian Charter of Employment Rights*, Hardie Grant Books, Melbourne, 2007, pp. xiv + 158, \$29.95 (paper).

Reviewed by Braham Dabscheck*

A. B. Fields and W. D. Narr, in 'Human rights as a holistic concept' (1992: 6), view 'the world as a field of struggle over rights without any guarantee of success'. The price of human rights, like freedom, is eternal vigilance. Rights have to be fought for and defended, over and over again. There is no guarantee that even when a nation has ratified various human rights instruments developed by the international community, such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and various Conventions of the International Labour Organisation — what Binion (1995: 525) has referred to as 'beautifully crafted ... documents' — they will be observed.

Since the mid 1980s, there has been an assault on, and an erosion of, employment rights in Australia. Various business and employer groups, the Liberal and National Parties Coalition, at both the federal and state level, and various 'think tanks', such as the H. R. Nicholls Society, have mounted attacks on the rights and benefits of workers, trade unions and traditional regulatory instruments, such as the Australian Industrial Relations Commission. The election of the federal coalition in 1996 enabled such plans to be implemented. They occurred in two stages. The first, was the passage of the *Workplace Relations Act 1996* (Cth.), and the second, the *Workplace Relations Amendment (Work Choices) Act 2005* (Cth.). Commentaries on these developments are contained in the May 2006 issue of this journal.

In response to these changes, The Australian Institute of Employment Rights has developed *A Charter of Employment Rights*. In the Introduction, Mordy Bromberg writes that the Charter 'is a back-to-basics attempt to define the rights of workers and employers' (p. 1). It 'has been built upon the guarantee of individual fairness and reasonableness' (p. 5). Bromberg maintains that:

A successful workplace relations system will be built on the premise that high productivity and high worker satisfaction are both enhanced by investment: workers investing in their workplace and employees investing in their workers. This workplace investment compact will be

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founded on an appreciation that the legitimate expectations of workers and those of employees are not mutually exclusive but are largely complementary (p. 7).

The rest of the book comprises short chapters, written by legal practitioners, economic, industrial relations and legal scholars, on items contained in the Charter. They are good faith performance, work with dignity, freedom from discrimination and harassment, a safe workplace, workplace democracy, union membership and representation, protection from unfair dismissal, fair minimum standards, fairness and balance in bargaining and effective dispute resolution. In addition, there is a chapter on extending the scope of the Charter to 'workers', including labour hire workers and dependent contractors, rather than the more restrictive definition of 'employees' adopted by the courts, one on how policies promoting 'fairness' enhance growth and productivity, and a chapter advocating Keynesian policies to promote full employment.

The respective chapters identify the major employment instruments developed by the international community and their implementation or otherwise in Australia, the role of the common law and past Australian experience is canvassed, including the activities of industrial tribunals and advocacy of various policies which should be pursued in either implementing or strengthening different strands of the Charter. Given the policy orientation of this project, the book mainly focuses on the enunciation and development of normative statements.

The great strength of this volume is the clarity and accessibility of the various chapters. The editors and/or the individual contributors are to be congratulated for the straight forward manner in which they have presented information and ideas on the respective issues which they have examined. In terms of entering (or is it re-entering) the fray over employment rights, this volume provides an excellent starting point in countering the dominant paradigm that currently exists in Australia for those involved in the never ending struggle of defending and advancing workers' employment rights.

References

- Binion, G. (1995) 'Human rights: A feminist perspective', *Human Rights Quarterly*, 17(3), pp. 509–526.
- Fields, A. and Narr, W. (1992) 'Human rights as a holistic concept', *Human Rights Quarterly*, 14(1), pp. 4–20.