Ron McCallum Debate 2025 – Opening Remarks

Justice Mordy Bromberg[1]

Abstract

The following is from an address prepared for the 15th Annual Ron McCallum Debate 2025, held at the Wesley Conference Centre, Sydney, on Thursday, 6th November 2025, on the theme 'Now or Never? How Can We Make Workplace Relations Fairer and More Productive?'

Key words

Workplace Relations, Industrial Relations, Fair Work Act, fairness, fairness, productivity, law reform

In my current position as President of the Australian Law Reform Commission, I get invited to speak at events such as tonight's often. As the founding president of the Australian Institute of Employment Rights, the important institution hosting tonight's Debate, I was particularly pleased to receive this invitation to speak, especially as I was instructed that I had to be brief. But what pleased me more was that the invitation was to speak at an event which honours my great friend and mentor – Ron McCallum.

Ron McCallum and I go back a long way. Ron was my lecturer in labour law at university. Ron ignited my passion for labour law – a passion which has dominated my work as a lawyer and as a judge. If I have any wisdom about labour law, it is largely due to Ron. Even the little bit of wisdom I wish to convey to you tonight – that there is a better way to reform our labour laws – has a connection to Ron.

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Ron and I were both members of the steering committee of eminent persons which, as part of a law reform exercise engaged in by the Australian Institute of Employment Rights in 2007, developed the "Australian Charter of Employment Rights" and the accompanying book of the same name. As the introduction to the book states, the Charter was created as an instrument for advocating for the reform of labour law in Australia.

The message that I want to convey tonight is not so much about how we should reform the substance of our labour laws – it is largely a message about process. However, I cannot pass over the Charter of Employment Rights without saying that that document was and remains a very useful guide to how the content of our labour laws should be reformed. The Charter is framed as a statement of the reciprocal rights of workers and employers that our laws should recognise and enforce. It was crafted on the premise that improved workplace relations requires a collaborative culture in which workers commit to the legitimate expectations of the enterprise in which they work, and employers provide for the legitimate expectations of their workers.

The importance of collaboration, or of a collaborative approach, was not only an essential element, central to the Charter's content, it was also the defining ingredient in the law reform process through which the Charter was created.

The Charter is largely based on rights recognised in Conventions and Recommendations made through the collaborative, tripartite processes of the International Labour Organisation, in which all of the three stakeholders in labour relations – workers, employers and government – have direct input into the formation of labour law reform at the international level.

Indeed, the very idea for the formation of the Australian Institute of Employment Rights as a think tank for promoting labour law reform, was that a tripartite structure fairly reflecting the perspectives of employers, workers and government, should beat the heart of the Institute as well as its proposals for reform.

The impetus for that approach to labour law reform is reflected in Bob Hawke's forward to the

Charter of Employment Rights. Our esteemed former Prime Minister said this:

> My appeal to Australia – to all workers, to all employers, to all political parties – is this: let Australia move beyond the class politics, the vitriol, the entrenched distrust, and the short-sightedness that have characterized at least the last ten years of industrial relations in this country. Let us set side, forever the senseless tug-of-war between labour and capital, and encourage both to pull co-operatively in the one direction. Australian industrial relations has now reached the tipping point. Australia needs to recognize that a winner-take-all approach is unsustainable, but that a win-win solution is attainable.

That impetus for a changed way of reforming labour law in Australia, is also reflected in my own words in the Introduction to the book where I said this:

> A balanced, fair and inclusive approach to workplace relations in Australia is long overdue. Labour law has been a political football kicked back and forth by the ideological warriors of class politics for far too long and at far too great a cost. Class-based politics have engendered an adversarial and conflict-driven approach to workplace relations that has not served Australia well. This trend continues. The Charter is an attempt to encourage a new direction.

Unfortunately, the new collaborative, tripartite direction to labour law reform that the Charter was based upon and which it tried to foster, has not eventuated. Labour law reform in Australia remains a largely partisan exercise which, depending on which of our major political parties is in government, either the agenda of the workers or, alternatively, the agenda of the employers is the primary basis for the reform.

A well-crafted and far more effective law reform process would be based on a contemporaneous, holistic consideration of the agendas of all relevant stakeholders. That consideration would be conducted with comprehensive consultation and the active participation of all relevant stakeholders. It would make a non-partisan, independent, evidence-based assessment of the merits of each and every claim for reform. The process would identify the legitimate rights and needs of workers and those of employers and, supported by transparent reasoning, the law reform process would demonstrate how, in accordance with a principled rather than a value-laden approach, those rights and interests have been appropriately

balanced to achieve a regime which is fair to all.

Now if, noting that the Minister for Employment and Workplace Relations is in the room, you're beginning to think that my speech is a pitch for an Australian Law Reform Commission inquiry into Australia's labour laws, let me assure you – that you are correct!

But let me end by saying that, based on my 45 years experience of labour law, whoever is given the opportunity to conduct a labour law reform exercise of the kind that I am advocating for, that exercise can be expected to unveil a very rich vein of productivity benefits. A gold-mine of productivity able to be accessed and shared by both workers and employers alike. That gold-mine is what Bob Hawke had in mind as the 'win-win' solution to the problematic 'winner-take-all approach' to the reform of Australia's labour laws.

Declaration of interests

Nil.

Justice Mordy Bromberg
December 2025