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- Legal Insights into Environmental Sustainability



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In the thematic monograph *Legal Insights into Environmental Sustainability*, the concept of sustainable development has been analysed as a legal and economic category, aiming to explore the way that changes in the socio-economic model impact public policy and normative framework. The results could serve as guidelines for policymakers to enhance states' efficiency in achieving the sustainable development goals, and define standards in terms of sustainable development. The themes covered in the monograph are internationally relevant, advocating best-practice approaches in the field.

Dr Mirko Vasiljević, Professor Emeritus

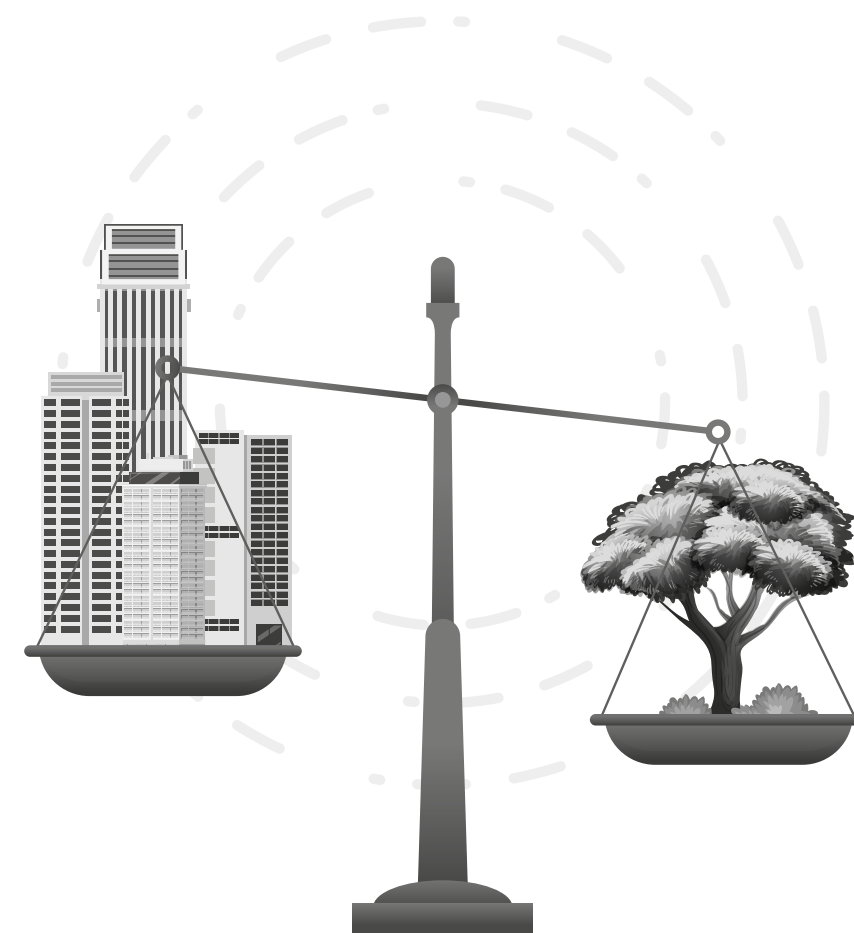


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LEGAL INSIGHTS INTO ENVIRONMENTAL SUSTAINABILITY



edited volumes

EDITORS: SANJA STOJKOVIĆ ZLATANOVIĆ, RANKO SOVILJ, IVANA OSTOJIĆ, MILKA DIMITROVSKA

LEGAL INSIGHTS INTO ENVIRONMENTAL SUSTAINABILITY

Exploring the intersection of various traditional legal disciplines – labour, business, and ecological law, with sustainability issues aims to offer valuable insights into the significant academic uncertainties about the future of a multilateral, globalized, and digitalized world, with law as an integral part of it. Global environmental protection issues are undoubtedly linked to economic development, societal progress, and finally, the exercise of fundamental human rights. Thus, legal, economic, and scientific reflections regarding the reconceptualization of basic notions/institutes by improving and/or adjusting the applied methods in various social science disciplines could contribute to the ongoing national and international debate at the public policy level, to implement theory in practice. This thematic monograph comprises eight research papers where legal ones dominate in Part 1 of the monograph related to the topics of Law and Sustainability, while the last two papers in Part 2 of the monograph deal with economic issues of sustainable development.

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INTO ENVIRONMENTAL SUSTAINABILITY

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EDITORS

Sanja Stojković Zlatanović

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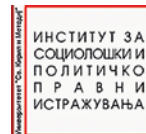
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Milka Dimitrovska



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The Role of Social Dialogue and Tripartism in Just Transition Policy – Exploring the Nexus Between Labour and Environmental Law*

Abstract

Climate change adaptation and mitigation policies have a profound impact on economic and labour market activities and *vice versa*. On the international level, a consensus regarding the transition to an ecologically sustainable economy has been reached, and it will undoubtedly cause significant changes in the world of work. According to the prevailing view, approaching the employment dimensions of climate actions and the creation of green jobs presupposes the integration of so-called Just Transition principle into both, national labour and environmental legislations and policies. Social dialogue has been seen as an appropriate instrument that could represent a linkage between environmental and labour law. Therefore, the paper primarily deals with the theoretical and conceptual basis of the just transition principle as a valuable ground to ensure the low-carbon transition and fulfilment of equity and inclusiveness goals that ensure decent work conditions. Furthermore, the role of social dialogue and tripartism in driving the just transition towards a low-carbon and resource-efficient economy needs to be considered broadly in regard to the recently promoted concept of tripartism plus social dialogue mechanisms. The authors point out the tripartism plus concept as an appropriate policy and legal ground for arguing the necessary bond between environmental and labour law, particularly, by highlighting the role of civil society groups in just transition policies.

Keywords: Labour law, Environmental law, Just transition concept, Social dialogue, Tripartism

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*There is one universal law ...
That law is justice. Justice forms the
cornerstone of each nation's law.*

Alexis de Tocqueville, 1835

Introduction and Theoretical Background

Environment degradation and labour exploitation are among the central global challenges nowadays, so stressing the importance of tackling the impact of climate change on the economy and labour and *vice versa* undoubtedly calls for the adaptation and transformation of both labour and environmental law,¹ internationally and nationally. Thus, environment protection and a worker-centred, human-rights based approach to labour have to go hand-in-hand when it comes to the transition onto low-carbon economy and reduction of pollution.

The transition to a low-carbon economy could affect many industrial sectors, but at the same time the emergence of new services and production opportunities increases the demand for new green jobs. Exploring the links between environmental and labour law in terms of green economy transition has recently become the main objective of academics searching for potential theoretical and policy framework for making interconnection between these two legal disciplines. Moreover, both legal disciplines are confronted with the challenges of how to reform in the era of climate change i.e. identifying and establishing adequate mechanisms to mitigate the climate change threats to the environment and labour. Therefore, at the first glance, exploring the very foundation of the green economy model in terms of theoretical understanding and conceptual development has been considered important for the creation of the 'bonding' framework. With that in mind, the prevailing view indicates that the concept of green economy has a philosophical background expressed in the ethical principle of eco-centrism, stressing the correlation among nature, economy and civilization, and the need for their coevolution through the preservation of

¹ Environmental law represents a relatively new legal category of international law. It emerged in the late 1960s as a part of public health law and derived also from private actions for pollution damages (Shelton & Kiss, 2005).

nature and socio-economic developmental opportunities. It presupposes the application of systematic, holistic, and integrated approaches to the concept of the green economy since it represents a complex dynamic system with deterministic effects of its parts, i.e. subsystems of ecology, economy, and society (Ivlev& Ivleva, 2018: 871). In that regard, dealing with climate change issues, also, needs a multinational and holistic approach, where 'holistic' is linked with the introduction of human component and the development of a coordinated policy and legal framework at all levels (Stojković Zlatanović, Stojković & Mitković, 2018: 798). Thus, the tripartite model of green economy has been stressed among scholars as the most applicable policy framework comprising both the individual, i.e. capitalist interests with the alternative ones i.e. social and green (Stojković Zlatanović, 2020: 231). When it comes to the historical origin and theoretical foundation of labour law, the general view could be presented in Spector's terms (2006, 1190), implying that 'the Labour law is an offspring of the social and political action of the working class movement' whose origins are derived from socialist ideology. Environmental law has roots in the social and political movement – environmentalism, broadly defined as a system of values that emerged to promote an environmentally friendly society, by advocating the limitation of negative human impact on the environment (Tarlock, 2010, 2). The essence of every social movement is the change of structure of the society or the distribution of resources, where the law has the role of a tool to achieve desired social change (Coglianese, 2001, 85). In terms of green economy transition, it means the reform to both labour and environmental law, each in its own domain but, simultaneously, exploring the novel concept for their interconnection, integration, and recognition within the model of sustainable development. In doing so, at the very beginning of the 21st century, several alternative approaches of economic and social transformation were introduced, primarily by activists – members of different social movements, and subsequently by scientists. They were arguing for social, environmental, and ecological justice consideration in terms of the prevailing concept of unlimited economic growth. Among them, the most influential initiatives have become the ecosocialism and degrowth, both rooted in ecological movement and politics of Green Left.

The concept of ecosocialism as stressed out by the most prominent contributor to ecosocialism ideology, Michael Löwy, is based on collective ownership of the means of production, democratic planning of investment and production, and a new technological structure of productive force replacing fossil sources with renewable sources of energy (water, wind and the sun) (Löwy, 2007: 294). Employment represents an important element of the ecosocialism ideology, where the working class has been seen as a driving force of structural transformation and democratic planning. The full exercise of the right to workers' participation in managing the economy and society has been highlighted in this regard, accompanied by the reduction of working hours, giving workers enough time for participation in the process of democratic planning (Löwy, 2007: 297). On the other hand, the degrowth concept arises as a primarily social movement initiative in 1972 France, calling for car-free communities, anti-advertising, and limits on production and consumption (Demaria et al., 2013: 195). The scientific concept of degrowth has an unclear conceptual foundation, but it seems that the idea was to generate socialism or at least ecosocialism that has indirectly been embedded in the foundation initiatives. The degrowth proponents, both activists and scientists, claim that there is compelling evidence that economic growth could increase inequality as well as lower it, but the economic growth as such certainly has direct negative effects on the level of well-being by creating anxiety and encouraging consumerism over happiness (Parrique, 2019: 33). Although the concepts of ecosocialism and degrowth are missing the clear and precise transition strategies, i.e. how to achieve desirable societal change, they are grounded in democratic principles regarding the actors and instruments for the transition, where the democratic planning i.e. democratic control over the production system has been considered crucial for the fair and just ecological and societal transition. Given that, Barca has emphasized that the 'ecosocialist degrowth should aim for a democratic, worker-controlled production system including the workers' right to participate in the decision-making process over the use of surplus', and argued that the problem of workers' alienation from the labour process that could be surpassed by constructive dialogue with the alienated and exploited workers of the world (Barca, 2017: 3).

Furthermore, Barca advocates the interconnection between alienated workers and environmental activists, working together to enact sustainable production but dealing fairly with the expected layoffs in affected sectors, which has been further embedded in the idea of just transition, regardless if this transition will be to a post-capitalist or degrowth society (Barca, 2017: 5).

The paper aims to contribute to the ongoing scholarly debate on the interconnection between labour and environmental law in terms of ensuring environmental, social, and economic sustainability, having in mind that the traditional concept of capitalist production still remains dominant but, now, is empowered by the term 'sustainable' or 'green' capitalism. It means that the growth can be unlimited, but nevertheless be rendered with consideration of environmental and social issues (Smith, 2016: 3). The concepts of ecosocialism and degrowth are relatively new, they are lacking 'coherent theory' and according to the prevailing views in literature they are 'stuck in a permanent conceptual blur' (Parrique, 2019: 7), so the mainstream economic model remains the capitalist model of sustainable economic growth. Thus, this paper will be grounded on the widely accepted economic model of 'green capitalism' and the role and responsibility of labour actors (particularly labour unions) in achieving green sustainable transition. However, the concepts of ecosocialism, degrowth, and so-called green capitalism i.e. sustainable capitalism have one element in common – democratic worker-involved decision-making procedure, emphasizing the broader social dialogue as an adequate policy and legal instrument to achieve desirable economic, ecologic, and societal change.

Hence, building upon the 'green capitalism' concept and social dialogue as the most effective framework for worker participation in democratic decision-making about the transition onto the green economy, this paper looks at the potential nexus between labour and environmental law, working together to tackle the issues of climate change adaptation and mitigation, in terms of the sustainable development economic model.

Climate Change, Labour and Just Transition – How to Interconnect or Simply Step out of the Prevailing Conceptual Blur?

Institutions that control the rationality of use and the degree of depletion of resources constitute the necessary framework for achieving sustainability (Ostojić, Petrović & Kelić, 2023). Climate changes represent the largest and the most complex challenge confronted by the mankind in our times, to which multiple legal disciplines are trying to respond. One of them is inevitably the environmental law, which sets the rules of environment protection, but there is also the unavoidable role of the labour law, which needs to make sure that the workers and their right to decent work do not bear the brunt of combating against the climate changes. The report of the Intergovernmental Panel on Climate Changes from 2018 contains one of the best illustrations of the consequences of climate changes; it confirms that the global warming by 1.5°C in the period from 2020 till 2052 will jeopardize the health of the mankind, its environment, food safety, water supply, as well as the safety of the population and the economic growth. Lower resilience of the impoverished communities to climate changes will lead to strong migratory pressures and global disruptions in the world of work (IPCC Special Report, 2018: 9).

Avoiding such impact of climate changes requires above all, the energy transition resembling the one that took place when the economy first switched from the power of domestic animals to the steam-run machines, and then from the steam to electrical energy to meet its energy needs. Modern energy transition involves “moving energy production and supply from fossil fuel to low-carbon alternatives, and across every conceivable sector” (Ghaleigh, 2019: 7). “The shift from fossil fuels would have to be almost complete by 2050 in historically high emitting nations, and by century’s end globally, to avoid catastrophic global warming” (Ghaleigh, 2019: 7).

An obvious consequence of such transition are major workplace losses in the economic sectors reliant on fossil fuels. Finding a solution for a challenge represented by such dramatic climate changes requires almost unimaginable economic and social changes, including a different nature of work, which could inevitably lead

to tensions between the advocates of environment protection and the socio-democratic representatives of the world of work, enshrined in the 'jobs or environment dilemma'. "The green economy establishes a link and an appropriate balance between ecology and the economy to increase social welfare, reduce poverty and achieve social justice" (Ostojić, Petrović & Matijević, 2022: 128).

Thus the concept of just transition is relevant from the labour rights perspective above all, because, instead of confronting the creation of new jobs with the environment protection, it points at the 'jobs and environment' principle, putting the environment protectors into a position that contributes to labour productivity. If accepted and adopted by the relevant decision-makers, just transition led by the workers' representatives would have the capacity to contribute to the rapprochement of the viewpoints of the interested parties – those protecting the labour rights with those dedicated to environment preservation. Thus the narrative 'jobs or environment' transforms into 'jobs and environment', whereby the care for environment no longer represents an obstacle to new decent work opportunities. Apart from that, such "blurring the boundaries between environmental law and labour law, it can help align environmental decisionmaking more with the realities of complex social-ecological systems" (Eisenberg, 2019: 277). "At the same time, by aligning environmental interests with labor concerns, it creates potential for coalition-building, thus informing both the ends of climate policy and the ever-elusive means for achieving it. Finally, in an age of dramatic populist alienation, it would inject much-needed economic equity considerations into environmental decisionmaking" (Eisenberg, 2019: 277).

However, the idea of 'jobs and environment' lacks the real policy and legal mechanisms to interconnect job creation with environment preservation, while, to many interested parties, the just transition policy approach seems rather vague – not precise enough and unclear. Just transition encompasses a huge set of principles, processes, and practices, representing the vision of a better post-transition green society aiming to reach economic and labour equity (Pinker, 2020: 9). With that in mind, the transition to a green, low-carbon economy needs to be just and equitable, fair and inclusive, decent for all workers groups, and with respect to

fundamental labour rights and principles. Concrete policy measures to address the issues of the transition process are still undefined, both in terms of employers' and workers' positions, novel insights into traditional labour institutes (working hours' scheme, training programmes, anti-discrimination, and social policy measures) are lacking, or without an adequate theoretical ground with respect to the proposed concept of just transition. Similarly to other related (social/union) movements, including its conceptual counterpart – degrowth, the concept of just transition has 'weak policy prescriptions' (Parrique, 2019: 6) falling short of providing the answer to how to achieve the 'equity, fairness and justice' when it comes to the workers' status and protection of fundamental rights. The governments, social partners and environmentalists are perceived as the key actors and the driving force of the transition, but currently there is no universally defined conceptual and practical framework for the transition process and the role of each party concerned. When affirming the system approach, meaning that the outcomes of every process arise from the interactions and relationships between its parts, this will result in system failure if these parts are physically or even theoretically divided and non-coordinated (Parrique, 2019: 22). Therefore, the implementation of the just transition concept requires finding the bonding point of labour and environmental activities supported by the national governments, working together to define a sustainable pathway for the transformation of the socio-economic system in terms of addressing the impact of climate change.

Labour and Environmental Law – Common Look Towards the Just Transition

From their very emergence in the late 19th and early 20th century, labour and environmental law have had little in common. Both legal fields have been trying to resolve difficult sorts of social and economic problems, balancing different types of interests. They however “deploy different legal rules, techniques, modes of reasoning, and different discourses, and they are concerned with social and economic problems with very different temporal and geographic scopes” (Doorey, 2017: 205). “Environmental law scholars

and lawyers rarely speak to their labour law counterparts. They publish in different journals, attend different conferences, appear before different tribunals” (Doorey, 2017: 205).

The goals and outcomes of environment and labour law are ultimately not in conflict, but their promoters are trying to achieve them within different timespans and geographic spaces. Labour law tries to secure that the socio-economic need for attainment and preservation of the right to decent work “is not subjugated to the political and economic demand for more and better decent jobs, while the environmental law too is concerned with preserving jobs, but also with the impacts of consumerism and economic activity on climate, air, and water quality and other harmful effects on the natural environment” (Doorey, 2017: 205). Even though these two legal fields have rarely been in touch with one another in the past few decades, it is evident that there are areas in which their interests overlap, such as the occupational safety and health regulations, which control and limit the exposure to hazardous substances in the process of work (Stavis, 2011: 145).

Still, the need for environment protection mostly remains only an external factor that can affect labour law and the outcomes of its work, so the two legal fields recognize each other “as an occasional source of exogenous influence” (Doorey, 2017: 221). For example, “climate influences the range of labour market activities and employment levels, as well as the relative bargaining power and strategies of workers, unions, and employers, while the modern environmental laws that limit emissions and require ‘green’ production equipment or techniques can affect production systems in ways that impact working conditions, cause layoffs, or create downward pressure on labour costs, which affects the collective bargaining and sometimes shapes the substance of rules and practices that emerge from the labour law system” (Doorey, 2017: 221).

Although the two legal fields deal with essentially different issues and socio-economic objectives, labour and environmental law are bound together by the fact that both legal fields rely upon bargaining and balancing among the interests of various interested parties about a very important and complex issue. The objectives of labour law are to balance the interest of workers in terms of preservation and improvement of labour rights, and the imminent

aspiration of employers to enhance the labour productivity and profitability of enterprises, in the situation characterised by inequality of bargaining powers of the two sides. Environmental law strives to establish a different kind of balance – that between the protection of environment from the damages inflicted by human activities, and the socio-economic need for a productive economy, within which it is possible to attain the decent work. Hence, one may conclude that both legal fields are somehow trying to combine the demand for economic activities and jobs with the essential needs of preserving the right to live and work in a healthy environment.

In spite of such clear duality of objectives and outcomes of labour and environmental law, climate changes as an extremely complex and multi-sectoral problem, due to which the transition to a green economy is a necessity rather than a matter of policy choice, will affect numerous fields of law – including, above all, labour law. That being said, it is evident that “the global transition towards a low-carbon and sustainable economy has both positive and negative impacts on employment. Generally, output and employment in low-carbon industries and services will grow, while energy and resource-intensive sectors are likely to stagnate or contract” (UNFCCC, 2016: 11).

The research conducted by the European Trade Union Confederation with support from the European Commission pointed at “a limited positive impact on employment from climate change, provided appropriate economic policies are put in place, with an overall net gain in employment for the sectors covered by the study of the order of 1.5 %” (Dupressoir et al., 2007: 185). In the enterprises incapable to adjust to these new circumstances of doing business the loss of jobs will be imminent, but the number of new green jobs in the enterprises capable to seize the opportunities of the green economy will outweigh that loss, so the overall employment will have a net growth.

Labour law has always been interested in the influence of economic transformations onto the distribution and quality of jobs, and the socio-economic consequences to the world or work. Nevertheless, the labour law researchers have thus far had a limited participation in the ongoing discussions about climate changes and

their possible influence upon labour law. “That has been a consequence of the fact that, despite the logical coherence between social democracy and environmentalism, environmental activism has often been portrayed as the “bourgeois playground” and an indulgence of those who lack a proper cause” (Ghaleigh, 2019: 9).

The World of Work and the Just Transition

The orientation of trade unions towards the just transition has been evident for several decades, although its full affirmation took place only in the last ten years or so. There are several versions about how this concept emerged, but there is little doubt that one of the founders of ‘labour environmentalism’ was Larry Sefton, leader of the Steelworkers Union in Canada, who introduced that concept in a dispute over uranium mining (Greener Jobs Alliance, 2018). It was not until 1993 that one of the leaders of North American trade union movement, Tony Mazzocchi, pledged for the creation of a superfund—which would later be called ‘just transition fund’—to support workers whose jobs might disappear through a closure of toxic production facilities in the arms factories (Rosemberg, 2017: 6). However, the term ‘just transition’ is mostly attributed to the Canadian trade union leader Brian Kohler, who in 1996 used that term to “reconcile efforts to provide workers with decent jobs and the need to protect the environment” (Galgóczy, 2020: 369). The Canadian unions’ Congress then adopted a document titled *Just Transition for Workers during Environmental Change* in 1999, depicting its vision of a healthy Canadian environment as the one founded on sustainability – a sustainable economy, sustainable employment, sustainable production and the public services that support it.² In parallel with that, it was the predecessor to the International Trade Union Confederation that had linked the term ‘just transition’ to the Kyoto conference of 1997, which resulted in a Kyoto Protocol – a treaty adopted as the first addition to the United Nations Framework Convention on Climate Change (UNFCCC),

² Just Transition for Workers during Environmental Change, April 2000, <https://digital.library.yorku.ca/yul-1121737/just-transition-workers-during-environmental-change/datastream/OBJ/download> (19.01.2022).

an international treaty that committed its signatories to develop national programs to reduce their emissions of greenhouse gases. One should take into account as well the significance of the success of trade unions which managed to include the notion of 'just transition' into a Preamble of the Paris Agreement of 2015 – a legally binding international treaty on climate change mitigation, adjustment and financing, which represents the key international statement of will of 190 countries in combating global warming.

At the same time, it should be pointed out that within the United Nations' system, the leading role in the affirmation of the just transition concept as an element of sustainable development has been played by the International Labour Organization (ILO), whose 2015 guidelines are considered as the milestone in all national just transition policies. The Guidelines invite the ILO member states to generate decent jobs along the entire supply chain with employment opportunities on a wide scale, by setting up institutional arrangements that would ensure the participation of all the relevant stakeholders at all levels. The Guidelines also highlight the need to secure the livelihoods of those who might be negatively affected by the green transition and also stress the need for societies to be inclusive, provide opportunities for decent work for all, reduce inequalities and effectively eliminate poverty (ILO, 2018: 3).

The Concept and Meaning of the Just Transition

In the narrow sense of the meaning, just transition represents management of the overall transformation of the economy, so that its new structure contributes to environment preservation within a given socio-economic framework in a balanced and socially just manner. As such, the just transition has got two main dimensions – appropriate outcomes, e.g. the new social structure and new sources of employment in a decarbonized economy, and adequate processes, e.g. the sequence of transformative steps from existing into new socio-economic reality in which the burden sharing is just and nobody is left behind (ILO, 2018: 2). In other words, the outcome of a just transition should be decent work for all workers in an inclusive society and a decarbonized economy, while the process would involve a meaningful social dialogue at all

levels, composed of two elements – one that involves redistributive effects of climate policies (for example, how the surge of prices of fossil fuels could affect various levels of workers' income), and the other that determines the regional programmes of economic restructuring and industrial policy. Generally speaking, the shift to a low-carbon economy should be seen as an opportunity to rectify the injustices of the fossil fuel economy, and not doing so, or allowing inequalities to worsen, would itself effectuate injustice (Eisenberg, 2019: 280).

The term 'just transition' has at least two primary usages, whereby on the global scale it is used to label the transition to a low-carbon society that is fair to the most vulnerable populations. The current fossil fuel-based economy has been characterized by inequality and environmental injustice, or environmental hazards that are inequitably distributed. The new, low-carbon economy should not repeat or exacerbate these injustices; in fact, the transition is a new opportunity, indeed an obligation, to counteract them (Eisenberg, 2019: 275). On a country level, 'just transition' should protect the workers and communities who depend on high-carbon industries from bearing an undue burden of the costs of decarbonization. Hence, it is intended to prevent that the shift to a low-carbon economy affects the livelihoods of low-paid workers in high-carbon industries disproportionately (Eisenberg, 2019: 275).

Specifying the benefits from a well-managed just transition and the challenges it confronts, the ILO Guidelines for just transition emphasize that well-managed transitions to environmentally and socially sustainable economies can become a strong driver of job creation, job upgrading, social justice and poverty eradication. Greening all enterprises and jobs by introducing more energy – and resource-efficient practices, avoiding pollution and managing natural resources sustainably, leads to innovation, enhances resilience and generates savings which drive new investment and employment (ILO, 2015: 4).

Broadening the Perspective – Beyond the Principle of Tripartism

The traditional ILO concept of tripartism has been inscribed into the very foundations of that oldest specialized agency of United Nations, as it is the tripartite decision-making of governments of member-states, representative trade unions and employers' organizations that forms the essence of the international labour standards' setting mechanism. Tripartite social dialogue includes consultations and cooperation between public authorities and the social partners, through which public policies, laws and other decision-making processes in the economic and social spheres are discussed. Depending on each country's traditions, national tripartite social dialogue comes in a variety of forms, such as economic and social councils, labour advisory councils and similar institutions for cooperation at the policy level (Engin, 2018: 21). The ILO has been relying on this form of tripartite decision making for many decades, with little interest in expanding the social dialogue beyond its traditional actors.

However, in the past couple of decades the traditional tripartite partners have been realizing that there are areas within their scope of work in which they could benefit from collaboration with other actors of the civil society specialized in particular issue of relevance for their work. That conclusion, enshrined in the ILO resolution concerning tripartism and social dialogue (2002)³ which acknowledged the potential of collaborating with civil society, was reached primarily due to a new breed of non-governmental organizations (NGOs) that has emerged at that time – professionalized, vocal and media-friendly. Those NGOs have often received strong support from those who felt that the establishment didn't always address their concerns, such as young people, and engaged in other spheres which have had a bearing on ILO concerns – poverty

³ ILO Resolution concerning tripartism and social dialogue was adopted at the 90th session of the International Labour Conference in 2002, and in its preamble it emphasizes 'that the social partners are open to dialogue and that they work in the field with NGOs that share the same values and objectives and pursue them in a constructive manner; recognizing the potential for the International Labour Office to collaborate with civil society following appropriate consultations with the tripartite constituents'. <https://www.ilo.org/public/english/standards/relm/ilc/ilc90/pdf/res.pdf>

reduction and development are good cases in point (ILO, 2003: 5). In order to properly address such relationship with the newly-emerged civil sector the ILO has come up with the 'tripartism plus' concept, depicting the situations in which the traditional tripartite partners have chosen to open up the dialogue and engage with other civil society groups, to gain a wider perspective and consensus on issues beyond the world of work (such as the protection of the environment, or the needs of specific or vulnerable groups) (ILO National Tripartite Social Dialogue, 2013: 15).

Even before the adoption of this Resolution, there were some ILO instruments that requested the involvement of specific civil society groups beyond the social partners, such as the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), and the HIV and AIDS Recommendation, 2010 (No. 200). Nonetheless, despite the emergence of 'tripartism plus', the ILO reinstates that the employers' and workers' organizations are distinct from other civil society groups in that they represent the actors of the 'real economy' and draw their legitimacy from their membership (Kovačević & Stojković Zlatanović, 2023: 123). Therefore, it is clear that, in any case, the purpose of involvement with other 'advocacy groups' is to strengthen tripartism, not to weaken or dilute it (ILO National Tripartite Social Dialogue, 2013: 15). However, the engagement of specific civil society organizations in international and national social dialogue and collective discussion could have an important role in proliferating the awareness, action, and responsibility towards ecological sustainability. Additionally, it could contribute to the introduction of a *sui generis* type of 'social partnership' aiming to strengthen unions' influence in achieving the sustainable development goals (Kovačević & Stojković Zlatanović, 2023: 124). Accordingly, scholars have agreed that the implementation of sustainable development agenda needs to be negotiated through some type of dialogue and collective discussion of all parties concerned emphasizing the principle of participatory governance (ILO-ITUC Issue Paper, 2017: 6). The International Labour Organization, in 2009, launched the *Green Jobs Programme* stressing the social dialogue as a mechanism for the implementation of environmental and climate policies. Having said that, some unions have recently been advocating for building a coalition among unions, environmental

organizations and wider civil society to deal better with the climate change and labour-related issues (Just Transition Alliance, 2022). It has been followed by the proposals to develop a novel structure of social dialogue in order to ensure the recovery and resilience in the post-pandemic era while simultaneously addressing the key societal challenges, including environmental and climate-related SDGs, as well as those related to decent work, inequality, economic growth, and innovations (Kovačević & Stojković Zlatanović, 2023: 124). An example of unions' initiatives for engagement in the area of environmental policies implementation is a piece of Spanish legislation adopted in 2005 allowing the social partners to participate in the preparation and monitoring of the national emission allocation plan, while in Senegal and Sierra Leone national environmental bodies include unions, employers' organizations, and civil society organizations (ILO-ITUC Issue Paper, 2017: 22).

'Advanced' social dialogue (tripartism plus social dialogue) i.e. empowered by the experience of environmental civil society organizations could help shape new social rights, provide mechanisms for adaption of existing ones, as well as support workers' transition to new green jobs (Kovačević & Stojković Zlatanović, 2023: 124). It will also encourage the inclusion of environmental clauses in social dialogue (green social dialogue), and take the leading role in driving the just transition towards a low-carbon economy. Obviously, environmental clauses in collective agreements have the potential to create quality and healthy jobs and drive the just transition towards a low-carbon economy (Bugada et al., 2020). In France in 2018, for instance, upon an initiative by the unions, the Agenda regarding the implications of digital and ecological transition on the organization of work was adopted, creating a valuable ground for industry and enterprise-level bargaining (Bugada & Cohen-Donsimoni, 2021: 9). Previously, in 2016, the Declaration of the social partners on public works for infrastructure for ecological transition and employment was also signed as a non-binding instrument, but with strong potential for increasing awareness of ecological-related issues' importance in collective bargaining. The Declaration sets out that the companies in the public sector should identify the new skills linked to green transition, provide ecological training for public works professions, and promote training and research through partnership with the

relevant actors (Bugada & Cohen-Donsimoni, 2021: 10). In Australia, collective bargaining over environmental issues is extremely rare, particularly having in mind that the Fair Work Act prohibits the inclusion in enterprise-level agreements clauses related to climate change while allowing consultation regarding some environmental issues, as a part of the implementation of health and safety measures considering the latter as a subject of 'employment relationship' (Markey & McIvor, 2019: 90). In Australia and the United Kingdom, the environmental and climate change issues are not yet addressed in collective agreements, but there are some developments regarding the inclusion of green workplace initiatives into other forms of social dialogue mechanisms, such as consultation at the enterprise level or even in policy documents, i.e. 'soft' law voluntary multilateral agreements advocating regulation of workers' actions in terms of climate change mitigation and adaptation policies (Markey & McIvor, 2019: 89). Moreover, in Canada, a union of employees in the public sector participated directly in adoption of a national environmental policy document advocating green bargaining and workplace environmental policies, while the Public Service Alliance of Canada calls for inclusion of environmental clauses in collective agreements (Das, 2022: 2).

Conclusion

The just transition concept still needs time and evidence of success in order to prove itself as the best way of dealing with climate change and labour issues in terms of the inevitable environmental transition process in the post-pandemic period. Thus far, it has more often been considered a policy instrument, or even a policy platform of the sustainable development model of economic growth, rather than a true legal mechanism for achieving desirable societal change. As stressed by Barca and Pinker (2020) "just transition can be ranged from a simple claim for jobs creation in the green economy, to a radical critique of capitalism and refusal of market solutions". Instead, social dialogue notably plays an important role as an interconnector among economic, labour and environmental issues representing the possible link between the two legal disciplines of environmental and labour law. We argued that so-called advanced social dialogue i.e. tripartism-plus social

dialogue mechanism is a starting point in proliferating the awareness, action, and responsibility toward economic, social and ecological sustainability. Activists and academics suggested several models of economic transformation – sustainable development, ecosocialism, or degrowth – but all have one element in common – emphasizing the democratic planning and participation of all parties concerned as crucial in achieving values of social justice, equity, and dignity. The right to participate in the transition of economic and labour model, links social justice, equity, and the very nature of employment relationship to environmental protection initiatives and requirements. Environmental civil society organizations have had a significant role in advocating green clauses in collective agreements by sharing their experience with the unions on engaging on the topic of environmental sustainability, discussing the various challenges they face in that regard, and exchanging good practices and possible tools. So-called advanced social dialogue that is suggested in the article is not intended to alter the traditional structure of the social dialogue between governments, unions, and employers' organizations, but rather to empower the social partners to deal better with climate change issues, by using practical experiences and knowledge of specialized civil society organizations.

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