

Labour and Environmental Sustainability

Literature Review – Spanish Texts

by
Consuelo Chacartegui

agreement!

A Green Mentality for Collective Bargaining

A EU research project led by

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Agreement – A Green Mentality for Collective Bargaining aims at investigating how and why collective bargaining can contribute to embed the principle of environmental sustainability into labour relations, without abandoning but reinvigorating the ideals of justice, equality and democracy that justify the traditional and selective goals of the EU social model and collective bargaining regulation. The research project is based on the idea that there is no contradiction between environmental sustainability and the fundamental ideals and functions of labour law and industrial relations. The project covers 6 EU countries: France, Hungary, Italy, the Netherlands, Spain and the UK.

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The interdisciplinary dialogue

The acknowledgment about environmental and labour issues shows that ecological problems need to be addressed to the world of work, and indicates the importance of the interdisciplinary dialogue in these matters¹. In the field of labour law, there are some contributions that underline that there is a necessary connection between green governance and decent work, maintaining that such an integrated approach turns the drive towards environmental sustainability into a significant avenue for development, with more and better jobs, social inclusion and poverty reduction. This approach is referred to the concept of green jobs and decent work provided by the International Labour Organization in the frame of an emerging concern for the social and environmental dimensions of the corporate social responsibility and sustainability².

Moreover, the competitive logics of capitalism are identified by the labour doctrine as the main rationale behind the wrong dichotomy between work and environment, which are both intended as mere production factors ending up involved in a dangerous competition against each other³. From a more inclusive approach, there are also studies that found the connections between green governance and co-operatives and the social economy. On the other hand, to achieve participatory and sustainable urban planning, the most appropriate legal status takes the form of social economy entity. This approach proposes ecologically sustainable social organization and argued for the need for ecological communities based upon diversity and nonhierarchical social institutions – e.g. in Catalonia or in the Basque region of Spain, for example taking the experience of Mondragon cooperatives as a case study⁴.

¹ F. PÉREZ AMORÓS, *Derecho del trabajo y medio ambiente: unas notas introductorias*, in *Revista Técnico Laboral*, 2010, n. 124, 173-200.

² H. ÁLVAREZ CUESTA, *Empleos verdes: una aproximación desde el Derecho del Trabajo*, Bomarzo, Albacete, 2016; S. RODRÍGUEZ ESCANCIANO, *Empleo y urbanismo sostenible*, in *Revista Jurídica de Castilla y León*, n. 39, 2016, 1-49.

³ J. ESCRIBANO GUTIÉRREZ, *Lavoro e ambiente: le prospettive giuslavoristiche*, in *Diritto delle Relazioni Industriali*, 2016, n. 3, 679-704.

⁴ H. ÁLVAREZ CUESTA, *Formas jurídicas de economía social en el nuevo urbanismo*, in *Revista Jurídica de Castilla y León*, 2016, n. 39, 1-44; C. CHACARTEGUI JAVEGA, *Workers Participation and Green Governance*, in *Comparative Labour Law and Policy Journal*, vol. 40, n. 1, 2018, 89-108.

Approach to the theme of green jobs

The analysis of Spanish literature on environmental-labour aspects and industrial relations institutions shows a prevalence of books and scientific articles concerned with the design of the employment policies in the green sector. Nowadays, there is an intense debate in Spain regarding the limitations of the Spanish economic model and the need for a change that can contribute to protect the environment⁵. The scientific debate is mainly focused in the intersection between two essential elements (employment rates and environmental sustainability). Most of the existing literature builds on the assumption that an increase in green jobs flows from the positive relationship between environmental policies and the increase of the employment rates – in Spain, new jobs will be created, some occupations will disappear and others may be replaced, but the balance seems to conclude in favour of a slightly positive assessment⁶.

The responses of the Spanish doctrine analyses the context of a new productive model⁷ that is expected to generate new jobs (green jobs) and make useful contributions to sustainable rural development⁸. From this, the centrality of employment policies tries to show the purpose of generating new sources of employment in a context of economic crisis⁹. The great majority of the studies analyzes the opportunities in sectors traditionally associated with an environmental content, such as renewable energies or recycling, and other activities that represent emerging sectors, such as sustainable mobility or tourism¹⁰, and activities in “traditional sectors” with potential for conversion, such as production of cement, steel or paper¹¹. Despite such a job creation potential,

⁵ M.P. RIVAS VALLEJO, *La protección del medio ambiente en el marco de las relaciones laborales*, in *Tribuna Social*, 1999, n. 103, 9-27.

⁶ M. RODRÍGUEZ-PINERO Y BRAVO FERRER, *Medio ambiente y relaciones de trabajo*, in *Temas Laborales*, 1999, n. 50, 7-18.

⁷ M.A. GARCÍA-MUÑOZ ALHAMBRA, *Derecho del trabajo y ecología: repensar el trabajo para un cambio de modelo productivo y de civilización que tenga en cuenta la dimensión medioambiental*, in L. MORA CABELLO DE ALBA, J. ESCRIBANO GUTIÉRREZ (eds.), *La ecología del trabajo: el trabajo que sostiene la vida*, Bomarzo, Albacete, 2015, 39-54.

⁸ H. ÁLVAREZ CUESTA, *Empleos verdes: una aproximación desde el Derecho del Trabajo*, cit.

⁹ S. RODRÍGUEZ ESCANCIANO, *Empleo y urbanismo sostenible*, cit., 1-49.

¹⁰ I. GONZÁLEZ RÍOS, *Turismo sostenible: implantación de energías renovables y eficiencia energética*, in *Revista Andaluza de Derecho del Turismo*, 2010, n. 3, 45-66.

¹¹ ILO, *Green jobs for Sustainable Development. A case study of Spain*, Paralelo Edición, Madrid, 2012, www.ilo.org/global/topics/green-jobs/publications/WCMS_186715/lang-en/index.htm.

some authors have also underlined the concern about the hegemony of the economic approach to this matter. In this sense, it has been stressed the difference between ‘sustainable progress’ and ‘sustainable development’ – the latter being less appropriate to the sustainable goals of United Nations, because its connections to the economic growth responsible of the environment degradation¹².

In the field of public procurement, the main conclusion is that the difficulties may arise because of the predominant economic focus of public procurement as well as for corporate and institutional reluctance. Nevertheless, the latest public procurement legislation reforms open timid paths to pursue policy objectives like equal treatment, labour protection and promoting sustainable green growth¹³.

The connections between environmental aspects-occupational health

This approach underlines a transversal point of contact between two elements: the environmental aspects and the occupational health and safety at the workplace. The protective nature of both fields is a shared objective¹⁴. In this sense, the Spanish authors have followed the doctrine of the Judgment of the Spanish Constitutional Court No 64/1982 on 4 November that has been focused in the need to take into account the harmonization of both perspectives because both of them are contributing to the goals of the article 40.2 of the Spanish Constitution (the right to health and safety at work) and the article 45 (the right to a healthy environment)¹⁵. According to the Spanish Workers Statute and the regulations on prevention at the workplace, every worker has the right to working conditions that respect his or her health, safety and dignity. The transition to a green economy has the potential to reduce many aspects of workers’ exposure to workplace hazards

¹² D. JIMÉNEZ BELTRÁN, *Progreso sostenible, medio ambiente y cambio climático. La sostenibilidad como vector de cambio*, in *Gaceta Sindical*, 2017, n. 28, 413-428.

¹³ I. DIZ OTERO, A. NOGUEIRA LÓPEZ, *Las cláusulas sociales en la contratación pública*, in *Revista Española de Sociología*, 2017, vol. 26, n. 3, 77-95.

¹⁴ J. JORDANO FRAGA, *La protección del derecho a un medio ambiente adecuado*, Ediciones Bosch, Barcelona, 1995.

¹⁵ M.J. RODRÍGUEZ RAMOS, *Salud laboral versus medio ambiente: por una política de prevención de riesgos laborales también en el medio externo*, in *Aranzadi Social*, 2002, n. 22, 1191-1214; P. RIVAS VALLEJO, *El tratamiento del ambiente natural en el marco de las relaciones laborales*, J.F. ALENZA GARCÍA (ed.) *Ambiente natural, empresa y relaciones laborales*, Aranzadi, Pamplona, 2009, 597-690.

and pollution risks¹⁶. In the context of the green governance, the doctrine has analyzed the possibilities of the *ius resistentiae* in the case of orders that involves a risk against the health and security of workers¹⁷. The study maintains the connections between the internal environment (in the company) and the external one, specially in relation to the principle of precaution.

Thus, in the context of the intersectional analysis of the Act 31/1995 of 8 November on Occupational Risks and the Act 26/2007 of 23 October on Environmental Responsibility, it's possible to find common points that could justify a holistic treatment. This approach is coherent with the objectives of the Directive 89/391/EEC, of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, in order to protect any work situation they have reasonable grounds for considering represents a serious and immediate danger to safety and health and of any shortcomings in the protection arrangements (Article 13.2.d). Moreover, the literature concludes stressing the urgency to align the legislation on health and safety at workplace with the norms focused on environmental protection. Taking into account this synergies, workers' involvement is promoted in order to overcome the erroneous perception of work and environment as conflicting realities¹⁸.

In the field of workers' participation, it has been analyzed the collective agreement for the sustainable use of resources, the protection of the environment, the health of people and the improvement of the competitiveness of the Spanish cement sector¹⁹. The pact fights against climate change and seeks social sustainability, through the creation of a delegate for the environment and the review of the consequences of this strategy on the health and safety of workers, thus uniting the environment and preventing risks²⁰.

¹⁶ J.L. MONEREO PÉREZ, *Medio ambiente de trabajo y protección de la salud: hacia una organización integral de las políticas públicas de prevención de riesgos laborales y calidad ambiental*, in *Relaciones Laborales*, 2009, n. 100, 481-538.

¹⁷ J. ESCRIBANO GUTIÉRREZ, *Derechos de los trabajadores ante las órdenes empresariales medioambientalmente injustas*, in *Revista de Derecho Social*, n. 78, 2017, 43-72.

¹⁸ J. ESCRIBANO GUTIÉRREZ, *Lavoro e ambiente: le prospettive giuslavoristiche*, cit., 679-704.

¹⁹ S. RODRÍGUEZ ESCANCIANO, *Sostenibilidad ambiental y prevención de riesgos laborales: reflexiones sobre el sector de la construcción ecológica*, in *Revista del Ministerio de Empleo y Seguridad Social*, n. 138, 2018, 219-270.

²⁰ H. ÁLVAREZ CUESTA, *La sostenibilidad ambiental y social en el sector cementero. Comentario al III acuerdo para el uso sostenible de los recursos, la protección del medio ambiente, la salud de las personas y la mejora de la competitividad del sector cementero español*, in *Revista General de Derecho del Trabajo y la Seguridad Social*, 2018, n. 48.

Environmental aspects and occupational health from the gender perspective

In the Spanish context, it's possible to detect a gender gap in environmental attitudes involving very different environmental risks and occupational hazards. For instance, it has been studied the growing influence of environmental pollution on women's health in the frame of the Spanish labour relations. According to the eco-feminist perspective, there is a need for research in this area that is based in the evidences of a differential morbidity between women and men. Women's bodies can act as chemical bio-accumulators and suffer consequences such as changes in reproductive health and the appearance of new illnesses such as fibromyalgia, multiple-chemical sensitivity, chronic fatigue syndrome and an increase in breast cancer. Many toxic insecticides, solvents and heavy metals can accumulate in particular in women's bodies due to their higher concentration of fat cells²¹. Thus, despite of the traditional invisibility of women in this area, there are some optimistic perspectives of future based on an interdisciplinary dialogue between gender, occupational rights at workplace and ecology issues²².

Collective bargaining and environmental sustainability in Spain

Even though environmental issues have been recently included in the agenda of public authorities and workers' representatives, the commitments made therein have been scarcely effective²³. Workers' involvement must be promoted in order to overcome the erroneous perception of work and environment as conflicting realities. According to the Spanish doctrine, reaching a consensus on preventing climate change requires the support of social partners. Thus, social partners can be key players in influencing climate change and environment-related policy-making, and in supporting more sustainable production processes²⁴. It has been underlined that there are a good legal framework for the right to information and

²¹ C. VALLS-LLOBET, *Contaminación ambiental y salud de las mujeres*, *Investigaciones Feministas*, n. 1, 2010. From the same author, see *Sesgos de género en medio ambiente y salud*, in A. HELDA PULEO GARCÍA (ed.), *Ecología y género en diálogo interdisciplinar*, Plaza y Valdés Ediciones, Madrid, 2015, 21-36.

²² L. MORA CABELLO DE ALBA, J. ESCRIBANO GUTIÉRREZ (eds.), *La ecología del trabajo: el trabajo que sostiene la vida*, cit.

²³ J. ESCRIBANO GUTIÉRREZ, *Lavoro e ambiente: le prospettive giuslavoristiche*, in *Diritto delle Relazioni Industriali*, cit., 679-704.

²⁴ L. RUSTICO, F. SPEROTTI, *Working conditions in "green jobs": Women in the renewable energy sector*, in *International Journal of Labour Research*, 2012, vol. 4, n. 2, 209-229.

consultation of employees in undertakings and establishments also regarding the employment impact of environmental policies. At national, regional and local levels, Spanish trade unions and employers organisations are increasingly taking part as current members at the round tables on implementation of the Kyoto Protocol and at advisory organs such as the National Climate Council²⁵.

It's a fact that Spanish social partners are trying to include green clauses into collective bargaining, overall since the Law No. 2/2011 of March 4, 2011, on Sustainable Economy, came into force, path that have culminated in the Spanish strategy on companies' corporate social responsibility practices (2014–2020)²⁶. A key aspect of this Strategy on sustainability is to reduce the environmental impact by all types of organizations (public and private) by promoting actions pursuing sustainability, energy efficiency, control in the consumption of natural resources, and minimization of greenhouse emissions. In this sense, some studies have stressed that the analysis of collective bargaining in Spain shows the idea that there is a need for a sectoral strategy, developed in concert with the social partners as well as public authorities, to maintain employment and promote training and skills in the field of sustainability. When unions and employers associations have negotiated to improve the working conditions, it could happen that at the same time they were helping to adopt a greener strategy – e.g. mobility and alternative means of transport²⁷. Drawing the conclusions of the study of the agreements in some relevant sectors, like the cement or steel industry, employers associations and unions welcome the fact to have constructive permanent dialogue with the social partners from a multilevel perspective (European, national and local), in order to rebalance the three essential pillars of energy policy: sustainability, security of supply and competitiveness²⁸.

²⁵ R. SASTRE IBARRECHE, *Empleo y desarrollo del Protocolo de Kyoto: los derechos de implicación de los trabajadores*, in *Revista General de Derecho del Trabajo y de la Seguridad Social*, 2009, n. 9.

²⁶ C. REVERTE, *The new Spanish corporate social responsibility strategy 2014–2020: a crucial step forward with new challenges ahead*, in *Journal of Cleaner Production*, 2015, n. 91, 327-336.

²⁷ J.F. ALENZA GARCÍA, G.L. BARRIOS BAUDOR, C. SAN MARTÍN MAZZUCCONI, *La negociación colectiva como fuente del Derecho ambiental*, in *Revista Aranzadi de Derecho Ambiental*, 2003, n. 3, 17-32; G.L. BARRIOS BAUDOR, *La negociación colectiva como instrumento de protección y educación ambiental*, in J.F. ALENZA GARCÍA (ed.), *Ambiente natural, empresa y relaciones laborales*, Aranzadi, Pamplona, 2009, 691-821.

²⁸ C. CHACARTEGUI JAVEGA, *Negociación colectiva y sostenibilidad medioambiental. Un compromiso social y ecológico*, Bomarzo, Albacete, 2018.