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Skills and Professions for a "Just Transition". Some Reflections for Legal Research

Lilli Casano¹

Abstract

Purpose. The aim of this paper is to bring back to the fore the decisive role of adequate measures for skills identification, development and recognition, in order to create labour market infrastructure capable of integrating sustainable development with decent work principles.

Design/methodology/approach. The analysis is based on a preliminary literature review and on the elaboration of an original, albeit provisional, theoretical framework.

Findings. Research has paid little attention to the legal and institutional arrangements promoting or preventing the formation of skills for a just transition.

Research limitations/implications. The paper presents the partial results of a preliminary study, yet laying the foundations for moving beyond the traditional approach promoted by research on "green jobs" and "green skills", pointing out those legislative and institutional mechanisms which have been neglected in the literature to date.

Originality/ value. The paper puts forward some proposals for an original theoretical framework based on the integration between *Just transition* and *TLM (transitional labour market)* frameworks.

Paper type. Preliminary research paper.

Keywords: Sustainability; Decent work; Skills identification, development, recognition; Professionalization processes; Career transitions; Occupational Health and Safety.

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1. Environmental Sustainability and Decent Work: The Role of Skills Identification, Development and Recognition

Environmental sustainability (²) has started to be analysed only recently in relation to its links with work and employment dynamics. Research concerns the impact that the diffusion of the "green economy" can have on employment structure, and the relationship between environmental sustainability and decent work, the latter being a perspective adopted by the ILO, among others.

The ILO's *Greening with Jobs Report of 2018* (ILO, 2018) analyses the relationship between environmental sustainability and decent work, highlighting the following key issues: the urgency of promoting a synergetic development of sustainable economic, environmental and employment policy; the impact of environment degradation on occupational development (both in quantitative and qualitative terms), consisting of a progressive loss of jobs and a worsening of working conditions especially for the most vulnerable groups and in developing countries; the need to question the "decent work" dimensions connected to the transition towards a green economy, with reference to economic activities producing negative externalities on so-called "ecosystem services", on other workers and on society as a whole, as well as in relation to the decent work dimension of new job opportunities.

These concerns form the basis for the concept of a "Just Transition", that means assuring that the costs of environmental change towards sustainability are shared fairly and not wholly devolved onto workers in targeted industries and their communities (³). The 'Just Transition' framework intercepts work regulation at different levels: from the consideration of the employment factor during the planning of a climate change response measure; to the preparation of the transition of the workforce; to the implementation and the assessment of the effect of the transition. Among the elements to be considered for a just transition of the workforce to maximize the positive impacts and minimize the negative effects, consultation and social dialogue and training and skills development, alongside social protection and security, are of pivotal importance (⁴).

The ILO's guidelines for a Just Transition to Environmentally Sustainable Economies and Societies for All (ILO, 2015) detailed nine key policy areas and institutional

² For a discussion of the notions of sustainability or sustainable development see Kullmann (2018).

³ On the idea of a Just Transitions Law, combining "insights from environmental law, environmental justice, and labour law" see Doorey (2016).

⁴ See UNFCCC, "Just transition of the workforce, and the creation of decent work and quality jobs" (October 2016) http://unfccc.int/resource/docs/2016/tp/07.pdf.

arrangements, through which environmental, economic and social sustainability can be addressed:

i. Macroeconomic and growth policies;

ii. Industrial and sectorial policies;

iii. Enterprise policies;

iv. Skills development;

v. Occupational safety and health;

vi. Social protection; vii. Active labour market policies;

viii. Rights; and

ix. Social dialogue and tripartism.

However, research on these dimensions is still lacking, especially in labour law, because for a long time work and the environment have been considered as conflicting realities (Zbyszewska, 2018).

Only recently have labour law scholars begun to address the need to integrate the dimension of environmental sustainability into work regulation models. This occurred in the context of a general rethinking of the discipline, in search for new founding principles more consistent with contemporary reality, among which sustainability in the broad sense acquired a prominent place. In this view, it has been suggested that the environmental dimension of sustainability can be embedded in labour law "without abandoning but instead reinvigorating the ideals of justice, equality, and democracy that justify the traditional and selective goals of the discipline" (Tomassetti, 2018a). Following this reasoning, "the alignment between traditional functions of labour regulation and the principle of environmental sustainability could be done with few policy and normative adjustments which incorporate environmental concerns into the traditional dvnamics of labour law as aimed at combining efficiency/productivity with decent work" (p. 84).

Work regulation and environmental policies are unquestionably affected by a mutual impact. On the one hand, it is clear to what extent labour regulation (organisational and contractual arrangements inside companies) may affect environmental sustainability. Here the focus is on how to manage, especially on the industrial relations floor, issues such as energy consumption, the use of raw, the amount of waste, the incidence of logistics and transport costs in the supply chain and distribution, with a view to recover productivity and efficiency, increasing margins of profitability and, therefore, promoting redistribution and higher employment rates (Tomassetti, 2018a).

On the other hand, the consequences that economic policies promoting a just transition may have on employment structure have become evident. Targeted interventions in the field of labour market regulation are required to manage employment tensions emerging from the transition to a low-carbon and resource-efficient economy, which directly affects the world of work through job creation, job destruction and occupational change (ILO, 2018).

It is not only a matter of regulating the matching between demand and supply to favour the transition from one sector to another and to support the development of the green economy.

Following the Sustainable Development Goals (SDGs)(UN, 2015) and the ILO's Guidelines for a just transition (ILO, 2015), skills development must be considered a key component of the response to environmental challenges that also promotes decent work, alongside social protection. Promoting tools and policies for the identification, development and recognition of skills is crucial not only in order to face different mismatch problems detected by the literature that dealt with green jobs and green skills (Bowen et al., 2018). By means of adequate skills development policies and interventions it is also possible to reduce factors determining new risks (not only related to the loss of employment, but also in the field of occupational health and safety, environmental and natural disasters) and possible discrimination (concerning lower opportunities to access jobs in the green economy for women and other vulnerable groups).

Despite the importance of identifying, training and recognising skills to facilitating the transition to a sustainable economy that advances decent work, an ILO survey covering 27 countries (ILO, 2018) has highlighted a number of policy challenges, such as the lack of capacity to collect data on skills for a green transition, the low level of awareness of environmental sustainability and the weak institutional mechanisms for policy-making and social dialogue, which prevent skills development from playing a stronger role in a just transition.

Specific programmes are often formulated in a few sectors, which are considered relevant for this transition (e.g. energy, agriculture), but the importance of modernising skills development regulation and policies and qualification systems is rarely taken into account as a cross-sectorial priority. From an economy-wide perspective, not only priority sectors, but all sectors have the potential for greening (ILO, 2013).

That is why there is an urgent need to improve understanding of the institutional mechanisms through which an impact on skills development for a green transition may be reached.

2. The Need for Further Research into Legal and Institutional Arrangements Promoting or Preventing Skills Formation for a Just Transition

In the current debate, considerable attention has been paid to creating new jobs (e.g. green jobs), even though the discussion features excessive rhetoric. This aspect was examined in depth, mainly in terms of economic analysis, assessing the characteristics and distribution of new employment opportunities and developing projections, particularly at national level and by economic sector.

By way of example, several studies conducted in Italy have focused on developing projections on the diffusion of green jobs: in 2010, the IRES-CGIL piece of research titled "Climate change, energy efficiency and renewable sources: investments, employment impacts and new professional skills" mapped 54 new professions, distributed along a wide spectrum of qualification levels, including both specialised and non-specialised figures, often developed without specific training paths and credentials. The Excelsior Report on employment and professional needs carried out by Unioncamere and Anpal in 2018 confirmed that, in addition to the digital economy, the greatest demand for employment over the next few years will be in the field of ecosustainability, a sector which, according to the GreenItaly Report of the Symbola Foundation and Unioncamere carried out in October 2018, already employs 3 million people in Italy, as much as 13% of the total number of workers.

In a research scenario which is mainly dominated by economic and quantitative studies, the "how to" dimension of skills identification, development and recognition, e.g. legal and institutional arrangements that can promote or prevent the formation of skills for a just transition, remains poorly explored (ILO, 2018; Cedefop, 2019; Pociovalisteanu et al., 2016; Rustico, Tiraboschi, 2010). When looking at the legal regulation dimension of the problem, a number of issues arise.

Save for some positive exceptions (Doorey, 2016; Tiraboschi, 2015; Tomassetti, 2018; Zbyszewska, 2018; Kullmann, 2018), the topic of a "Just transition" has been under-researched by legal scholars (Doorey, 2016) and even more so by labour law pundits. Furthermore, no consistent body of research exists in the legal field covering the general issue of skills identification, development and recognition (Freedland, 1996; Casano, 2016). This is due to the unconventional nature of these issues for labour law academics, but also to the complexity of national legal frameworks (i.e. the overlapping of a number of normative tools at different institutional levels).

Low accessibility to information concerning the local level of intervention and the social partners' contribution further compounds the picture.

3. Understanding Professionalization Processes and Career-Path Determinants to Steer Future Research and Policies

In parallel with analysing the impact of the ecological transition on the structure of employment, a consistent body of literature has dealt with the specific skills required of workers in the ongoing transformations (green skills). In this sense, divergent views exist, reflecting a certain degree of indeterminacy of the definition of "green jobs" itself (Bowen and Kuralbayeva, 2015; Winter and Moore, 2013; Furchtgott-Roth 2012). Even the position of EC institutions has been fluctuating, but now they seem to converge towards a combination of transversal and general competences which are also common to figures in other sectors (e.g. analytical and communication skills, forward thinking) along with specific "green" competences (e.g. environmental law, knowledge of ecosustainable materials) developed according to one's professional profile (Rustico, Tiraboschi, 2010).

The most in-demand professional profiles in the green economy and their level of specialization and qualification are also disputed issues. More recent studies have focused on the diffusion of "broadband" professional figures, which in the international literature are called "sustainability professionals". The starting point is the assumption that it is necessary to introduce multi-purpose figures able to manage all round the theme of sustainability by mobilizing a wide and diversified set of skills (Spraul et al., 2019).

Nevertheless, the analysis focusing on the new skills and professional figures required in the transition to a green economy risks being affected by a high degree of vagueness in the current phase, as there is still uncertainty about the possible employment outcomes of the transformation underway. Green jobs vary in 'greenness' (the use and importance of green tasks), with very few jobs only consisting of green tasks, suggesting that the term 'green' should be considered as a continuum rather than a binary characteristic. Greening is likely to involve transitions on a similar scale and scope of existing job transitions. Although it is easier to move to indirectly green rather than directly green jobs, non-green jobs generally appear to differ from their green counterparts in only a few skill-specific aspects, indicating that most re-training can happen on-the-job. The green economy therefore has large potential for short-run growth, if job transitions are strategically managed (Bowen et al., 2018).

It is therefore fundamental, even before engaging in a descriptive overview of the skills required in specific sectors, to understand the mechanisms through

which new and old professional profiles are evolving, and new and old skills are identified, developed and recognised in different contexts.

In this respect, the specific professionalization processes in the green economy should be analysed. Professionalization processes can be defined as social processes whereby an occupation transforms itself into a true profession featuring the highest integrity and competence. Studying the existence and evolution of specific professionalization processes in the green economy is important, in consideration of the relevance of these occupations to the achievement of sustainable development goals. It is crucial to understand how these professionals act, perform their jobs, organise themselves to promote collective action, develop their competences and make them transparent and recognizable. Each professionalization process tends to establish norms of conduct and qualification of members of a profession, ensuring that members of the profession achieve conformity to the norm. The most typical professionalization process is that of liberal professions (which has been broadly analysed in sociological research) but recent studies show that atypical professionalization processes, which share some features with the traditional ones, though differing in important respects, are developing "new" professions in emerging occupational fields (Evetts, 2003; Maestripieri, 2017).

In the green economy, these processes are expected to differ depending on the job: by using the most common classifications of green and greening professions, one might expect that different professionalization processes are created considering the following: *Green Increased Demand* (Green ID) professions (existing jobs that are expected to be in high demand due to greening, but do not require significant changes in tasks, skills, or knowledge), *Green Enhanced Skills* (Green ES) professions (existing jobs that require significant changes in tasks, skills, and knowledge as a result of greening), and *Green New and Emerging* (Green NE) professions (unique jobs created to meet the new needs of the green economy) (Bowen et al., 2018). Understanding the functioning, similarities and differences between these professionalization processes can help one to set priorities for each qualification system, inform policy makers while contributing to the social partners' strategies.

Considering that throughout their lifetime workers may change occupations more than once or require several numbers of job transitions to join the green economy, analysing long career paths can give further insights into one's ease of transitioning and the long-run potential growth of the green economy. Career paths that start in non-green jobs and end in green jobs are of particular interest for policymakers. Even if jobs in 'other' categories are not directly linked to green jobs, workers in these occupations may eventually transition to a green job, by switching to one or more non-green jobs. Thus understanding the elements favouring this process is of crucial importance: this can be done only by developing a qualitative, longitudinal analysis based on individual career paths.

4. Occupational Health and Safety and Gender Mainstream

Drawing from the preliminary analysis of those studies which consider the relationship between sustainability and decent work referred to above, two dimensions should mainstream research in this field: the first deals with occupational, health and safety issues, while the second takes into account a gender perspective.

It has been underlined that jobs generated in the green economy are often characterized by a low level of qualification and by insufficient organization in terms of tools and strategies for risk prevention and protection (Moreira et. al., 2018). In this sense, the interconnection between the (external) "environment" and the "work environment" goes beyond the aspects already explored by labour law scholars (e.g. the provisions regulating OHS obligations depending on their environmental implications, environmental whistle-blowing, workers' voice and participation rights, see Tomassetti, 2018), and overlaps the dimension of workers' qualification. Training and information on health and safety should be considered as key transversal elements of qualification systems in all sectors, moving from a formalistic approach to a *person-centred* one, where appropriate tools and methodologies should be adopted in order to change company practices and workers' mindset.

Yet the literature has shown the emergence of inequalities when accessing these jobs for women and other vulnerable groups (Haidù, 2010). Women are underrepresented in the green economy (Rustico, Tiraboschi, 2010; Zbyszewska, 2018b), and without targeted training, education, apprenticeships, employment placement, financial tools and supportive social policies, transitioning to a green economy may exacerbate existing gender inequalities. Considering gender as a significant variable within any research and policy formation process it is crucial because it provides specific perspectives, raises specific questions, helping one to better understand the problem.

However the gender dimension of the just transition seems to imply much more than this, if, following Zbyszewska (2018b), we consider that the environment "exclusion" from work regulation discourse, on the one side, and the exclusion of social reproduction work from the same discourse, on the other side, are entwined and are the result of the historical process of formation of labour law. Reconnecting work, the environment and the social dimension means reconsidering basic assumptions of work and labour market regulation models, and the concept of work itself (Tiraboschi, 2019). This leads to enlarging the scope and purpose of labour law - namely "what counts as

work" and "who deserves voice and protection" (Zbyszewska, 2018b) – an aspect that is consistent with the TLMT's definition of "work" and "labour markets".

5. Integrating the *Just Transition* with the *Transitional Labour Market* Framework: Some Preliminary Insights

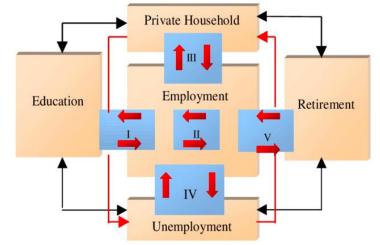
The "transitional labour market theory" (TLMT) (Schmid, 1998, 2009; Schmid, Gazier, 2002; Gautié, 2003) is based on the normative purpose promoting sustainable full employment (Gazier, 2010). This means creating a "new full employment norm" where employment regulation is connected with other crucial social spheres, viz.: lifecycle compatibility of family life, personal and professional life; gender equality; crossable and negotiated borderline between different forms of activities, sustainable development, from a social and environmental point of view.

The main policy recommendation of TLMT is that of supporting or creating "transitional labour markets", defined as "institutionalised arrangements which allow or support the change of the employment status or the combination of labour market work with other socially (and to some extent even economically) useful activities [...] Such transitional labour markets would also serve as a flexible buffer which expand in periods of recession and contract during booms" (Schmid, 1998). Two central points mark TLMT, most notably: the suggestion to focus on "transitions" but also on the "positions" they start from and they lead to, in order to promote protected mobility. That means assuring that "stability poles" exist as safe arrival points for workers engaged into some mobility. Secondly, the attention to the key role played by the transferability of skills. Other central issues are: considering gender asymmetries, taking into account that women are involved in more and different transitions than men; considering protected mobility as a subset of work and employment quality, that implies taking into account all the dimensions of work quality, starting from safe working conditions; the role of the social partners in sharing information, negotiating decisions, and comanaging labour market institutions (Gazier, 2013).

The two frameworks (the *Just Transition* and the *Transitional Labour Markets* one) share important elements: the convergence of environmental and occupational concerns towards decent work principles; the need for an integrated approach in policy making; a multi-actorial and multi-sectorial approach with a strong role of the social partners and social dialogue at different institutional levels; the crucial role of skills identification, development and recognition; the attention to the gender dimension and to all aspects related to the promotion of work quality.

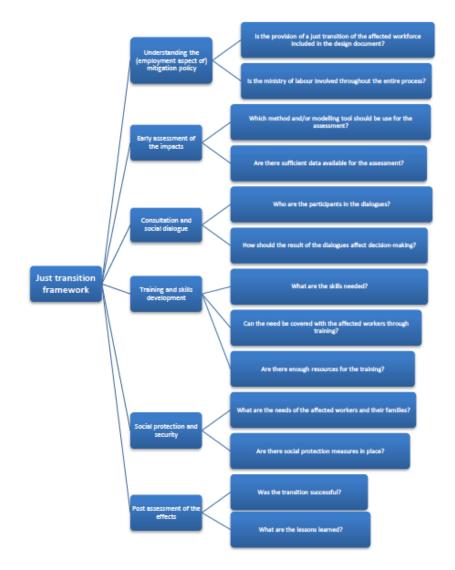
If we consider the green economy to be a field in which "good" transitional labour markets can be promoted, this framework can be used to investigate in detail the role of skills identification, development and recognition as a key element for promoting protected mobility. This would represent a first attempt to apply the TLM theoretical framework to the analysis of institutional mechanisms concerning several possible occupational transitions occurring in the green and sustainable economy, by focusing on the specific aspect of skills regulation. That implies an enlargement and a restriction of the scope of application of the original framework, opening new roots for research with this approach, which is gaining growing consensus in Europe due to its strictly connection with decent work perspective (Gazier, Gautié, 2011; Brzinsky-Fay, 2010).





Source: Schmid and Gazier, 2002





Source: UNFCCC, 2016, p. 26.

Integrating the framework of a Just Transition with TLMT means that, when it comes to considering aspects related to skills and training, the focus should be not only on which skills are needed and how to train workforce, nor on the functioning of single subsystems (education; training; workplace, etc.) used for skills individuation, development and recognition, but on those institutional mechanisms which are useful for the management of several transitions. They include: the transition from education to employment and how to promote early professional guidance towards the green economy; the transition from one job to another (i.e. from non-green professions to green/sustainable professions, which require specific skills adjustment mechanisms); the transitions occurring in the so called "greening professions" (e.g. taking place within the same company or profession, shifting from a traditional set of skills to green skills); the transition from unemployment/inactivity to work by means of subsidised green jobs or activities and the role of non-market activities. Evidently, these mechanisms come with great complexity, due to the need to disseminate a holistic view among institutions, relevant actors, and labour market processes.

6. Conclusion

The present paper has attempted to bring the attention of academia and policy makers back to the role of measures promoting skills identification, development and recognition in order to promote a just transition. Integrating environmental law with labour law is not sufficient if new rules, tools and financial means are not implemented supporting the very first resource promoting a just transition: people's professional skills and capabilities.

Research developed in the field of green jobs and green skills features an economic and quantitative approach which gives little attention to the "how to" dimension, i.e. proper legal and institutional mechanisms that promote or prevent the formation of skills for a just transition.

Our previous studies on the new labour market regulation models stemming from the ongoing transformation of work (Casano 2016, 2018) suggest that adopting the specific theoretical framework of "transitional labour market theory" (TLMT) could help one challenge the traditional quantitative approach employed in this field. That would imply regarding labour markets no more as places where the matching of demand and supply of specific skills takes place, but as "open social systems" where multiple actors cooperate in order to create the conditions for a just transition.

Setting up a research programme of this kind requires first and foremost mapping and analysing effective tools and regulation techniques, focusing on: the integration between environmental, economic, training and occupational policies; the features and functioning of continuous training and skills certification systems; the social partners' contribution to sustainability and workers' skills development.

The focus on the legal-institutional context should be accompanied by analyses made on individual level concerning professionalization processes and career paths for key professional profiles in the green economy, to be examined

through case studies. Finally, occupational, health and safety issues and the gender dimension should mainstream the investigation of skills development and qualification systems and inform the conceptual framework of each research in this field.

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