(Anti)social dialogue. How to talk when we don't understand each other in multicultural societies
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Abstract

In the labour market reality, where migration is becoming increasingly common, new challenges continue to emerge. One of these is the practice of social dialogue. Individuals representing different cultural backgrounds often have varying, and sometimes conflicting, approaches to this issue. Local organizations representing workers frequently lack the tools necessary to effectively integrate migrants into their structures. In order to gain a deeper comprehension of the obstacles encountered in the domain of social dialogue with regard to migration, it is imperative to delineate the principal dimensions that give rise to these challenges.

Keywords: Social dialogue; Migration; Discrimination; Labour market; Representation

1. Introduction.

Conducting social dialogue poses significant challenges, even for actors who share the same legal framework and operate within similar social contexts. This process often becomes a battleground for clashing interests:

- competing priorities between the state and employers;
- conflicting goals between employers and workers;
- and even divergent demands among different groups of workers.

Navigating these tensions requires a commitment to establishing coherent principles, shared objectives, and fostering a culture of meaningful conversation. But what happens when the parties to this dialogue fundamentally misunderstand each other? The issue becomes even more complex in a multicultural context, where disparities in language, values, and cultural norms amplify the difficulties. How can effective social dialogue be conducted when such misunderstandings permeate every level of interaction?

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Migration, a phenomenon as old as human civilization, has always been driven by individuals seeking better living conditions or escaping crises in their homelands. The foundational principles of the 'push and pull' theory highlight the dual forces behind migration: economic, environmental, social, and political factors that compel individuals to leave their home countries while simultaneously attracting them to new destinations.[1] While the intensity of these factors varies, economic motives—particularly the desire to improve one's standard of living—remain the most common determinant for relocation. Even when employment is not the initial reason for migration, it often becomes a necessary outcome.

In 2019, there were approximately 169 million international migrant workers, accounting for 4.9% of the global labor force in destination countries.[2] By 2020, the total number of migrants worldwide reached 281 million, representing 3.5% of the global population.[3] This figure highlights a consistent upward trend, as it increased from 272 million in 2019. In certain regions and sectors, migrant workers are becoming indispensable.

This dynamic has profound implications for social dialogue in multicultural societies. As migrants increasingly contribute to the economic foundation of host countries, integrating them into existing frameworks of social dialogue becomes a critical yet challenging task. This article seeks to identify an optimal model for conducting social dialogue in multicultural contexts, where divergent cultural norms and legal expectations intersect.

The analysis is structured across several levels. First, the scale of the challenge posed by multicultural social dialogue is outlined. Next, key cultural determinants influencing social dialogue and unionization are explored. Finally, the article examines the conflict between integrating migrant workers into established mechanisms of dialogue—which may be culturally and institutionally foreign to them—and legitimizing alternative forms of dialogue that operate independently of the host country's legal framework. The goal is to identify pathways that foster inclusivity and effectiveness in social dialogue within increasingly diverse labour markets.

The prohibition of discrimination against migrants, including in the context of social dialogue, is rooted in various sources of international and EU law. Key international instruments include Universal Declaration of Human Rights which guarantees equal rights and freedoms for all individuals, regardless of their origin or status (Article 2); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), which prohibits discrimination against migrant workers, particularly in accessing trade unions and mechanisms of social dialogue (Article 26); Conventions of the International Labour Organization, such as Convention No. 111 on concerning Discrimination in Respect of. Employment and Occupation and Convention No. 97 on Migration for Employment, which promote equal treatment for migrants in the workplace.

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[1] Lee E., *A theory of migration*, in *Demography*, 3, 1, 1966, 50; Castelli F., *Drivers of migration: why do people move?*, in *Journal of Travel Medicine*, 25, 1, 2018.

[2] ILO, *ILO Global Estimates on International Migrant Workers Results and Methodology*, International Labour Office, Geneva, 2021, 11.

[3] McAuliffe M., Triandafyllidou A.(eds.), *World Migration Report 2022*, International Organization for Migration (IOM), Geneva, 2021, xii.

From the perspective of EU law it is worth to mention Charter of Fundamental Rights of the European Union (2000), which prohibits discrimination on grounds of national or ethnic origin (Article 21), including in the context of social dialogue; Council Directive 2000/43/EC, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, which applies to access to employment, social protection, and participation in professional life; Directive 2000/78/EC, establishing a general framework for equal treatment in employment and occupation, which ensures non-discriminatory treatment of migrants in the labour market and related institutions.

These legal frameworks form the foundation for protecting migrants against discrimination and ensure their equal access to social dialogue mechanisms, which are essential for their integration into the labour market and society at large. Numerous legal sources do not safeguard against the often negligible representation of foreigners in the conduct of social dialogue.

2. Migrants on the labour market.

The utilisation of migrant workers as a flexible source of labour is contingent upon the prevailing socio-economic circumstances. This phenomenon occurs when the rate of activity in a given sector increases at a faster pace than the rate at which new workers are generated within the domestic labour market. This is particularly evident in instances where unemployment rates are relatively low.[4] It is a well-documented phenomenon that labour migrants are disproportionately employed in roles that are typically rejected by native workers.[5] These roles are often characterised by low competitiveness, poor remuneration and challenging working conditions.

Migrant workers frequently encounter obstacles such as exploitation[6] and the infringement of their human and labour rights in the workplace, largely due to discriminatory practices. Such instances can manifest in various ways, including unequal access to trade union rights.[7] This can result in migrants uniting and establishing structures to safeguard their rights.[8] Nevertheless, the proportion of migrant workers who are members of trade unions is considerably lower than that of indigenous workers.[9] The exercise of migrants' rights in relation to the realisation of collective labour rights is impeded in a number of areas.

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[4] Schiff A., *Case study: Construction industry and migration*, 2022, www.productivity.govt.nz/inquiries/immigration-settings/, accessed 4 Dec. 2024.

[5] Wolla S.A., *The Economics of Immigration: A Story of Substitutes and Complements*, 2014, https://www.stlouisfed.org/publications/page-one-economics/2014/05/01/the-economics-of-immigration-a-story-of-substitutes-and-complements, accessed 4 Dec. 2024; Constant A. F. *Do migrants take the jobs of native workers?*, IZA World of Labor, 2014, https://wol.iza.org/articles/do-migrants-take-the-jobs-of-native-workers/long, accessed 4 Dec. 2024.

[6] Stauton B., *"A worker is a worker": the trade unions organising migrants*, in *ETUI Special Report*, 3, 33, 2019, 13.

[7] United Nations Global Compact, *Who are Migrant Workers?*, Business & Human Rights Navigator, https://bhr-navigator.unglobalcompact.org/issues/migrant-workers/, accessed 4 Dec. 2024.

[8] Liem W., *Organizing Against Fear and Repression: The Case of the Migrants Trade Union, South Korea*, 2009, https://www2.ohchr.org/english/bodies/cmw/docs/roundtable/liem_organizing_against_fear_repression_1may09.pdf, accessed 4 Dec. 2024.

[9] Council of Europe, *Report on relations between migrants and trade unions*, 1996,

Firstly, it is often the case that migrants are unaware of the activities of trade unions, or even of their existence. An essential factor influencing migrants' attitude is legal consciousness, the formation of which is dependent on a number of factors.[10] It is therefore of paramount importance to facilitate the development and reinforcement of migrants' awareness of trade union activities.[11] Furthermore, it is essential to recognise the potential for a vicious cycle to emerge with regard to migrants' involvement in societal processes, including social dialogue. The lack of integration of migrants into local society is associated with a reduction in their interest in participating in social life.[12] This, in turn, limits their capacity to contribute to the development of standards that facilitate their integration into local society, such as job stability and security.

The establishment of information centres and counselling services for migrants has the potential to enhance the efficacy of outreach initiatives.[13] It is, however, important to consider that migrants may lack trust in institutions as a result of their experiences in their country of origin. In the event of the implementation of information centres, which can also provide information on social participation mechanisms, as previously mentioned, it is essential that the information provided is tailored to suit the linguistic and cognitive abilities of the audience.

The second obstacle can be identified in alignment with the stance adopted by the International Labour Organization:

"Despite the clarity of international law, the growing (albeit insufficient) number of ratifications of relevant Conventions, and the observations of international supervisory systems, there are far too many legal restrictions at the national level interfering with migrant workers' enjoyment of FACB[14] rights and far too few instances of satisfactory removal of such restrictions".[15]

It has to be noted, that in some jurisdictions migrant workers' right to join and lead trade unions is frequently denied either by the law of the destination country, the employment contract or immigration status.[16]

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https://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=6917&lang=EN, accessed 4 Dec. 2024; Davies R., Drinkwater S., Owen D., *Trade Union Membership among the Migrant Community?* Cardiff: *Wales Institute of Social & Economic Research, Data & Methods (WISERD)*, Cardiff University, 2016, 4-8, https://wiserd.ac.uk/wp-content/uploads/Trade-Union-Membership-Among-the-Migrant-Community.pdf accessed 4 Dec. 2024.

[10] Adamski J.K., Florczak I., *Exploring the Model of Legal Consciousness Formation Among Foreigners Working in Poland. Preliminary Insights*, in *Migration Studies – Review of Polish Diaspora*, 3, 2018, 85-115.

[11] ILO, *Migrant workers' rights to freedom of association and collective bargaining*, International Labour Office, Geneva, 2023, 30.

[12] Bedaso F.J., Jirjahn U., Goerke L., *Immigrants and Trade Union Membership: Does Integration into Society and Workplace Play a Moderating Role?*, in *IZA Discussion Paper*, No. 15587, 2022, 1.

[13] ITUC, *Trade unions in action for the rights of migrant workers*, 2023, https://www.ituc-csi.org/Trade-unions-in-action-for-migrant-workers, accessed 4 Dec. 2024.

[14] FACB - Freedom of association and the effective recognition of the *right* to collective bargaining.

[15] ILO, nt. (11), 6.

[16] Marks E., Olsen A., *Policy and Practice: The Role of Trade Unions in Reducing Migrant Workers' Vulnerability to Forced Labour and Human Trafficking in the Greater Mekong Subregion*, in *Anti-Trafficking Review* , 29, 9, 2015.

A third hindrance which can be identified in the context of the lack of sufficient representation of migrants in trade unions (and other forms of collective worker representation) is trade unions lack of possibilities and interest in including migrants in their ranks.[17] Conversely, in countries where social dialogue is well established, it is an essential aspect of trade union activity to safeguard the rights of migrants, who are vulnerable to exploitation due to their limited bargaining power, which can result in social dumping. The pro-migrant stance of trade unions can be influenced by the prevailing social and political context.[18]

A trade union movement that prioritises the protection of migrants' rights has the potential to contribute to an overall increase in compliance with labour standards, including those of fundamental importance. In response to the globalisation of the economy, trade unions are organising the globalisation of solidarity in defence of migrants, in terms of the basic principles of the labour movement.[19] It is therefore encouraging to observe the intensification of the impact of trade unions on the rights of migrants, with due consideration being given to the participation of migrants in the actions taken. This is viewed as a positive development from the perspective of the entire system of global labour law, given the challenges involved in this matter, which are connected with the increasing participation of migrants in the inclusion of social dialogue tools.

As key actors in the protection and fulfilment of migrant workers' labour rights in both origin and destination countries, trade unions engage in social dialogue with governments and employers to devise rights-based governance frameworks and organise migrant workers to improve their working conditions through collective bargaining[20]. In light of the continued prevalence of immigration, the prospect of a more balanced economic and political world order remains a distant one.[21] It is therefore important to seek ways to: firstly, raise awareness among social partners of the need to include migrants and issues concerning them in the social dialogue; secondly, to build awareness among migrants of the benefits that may accrue to them from participating in such a dialogue; and thirdly, to seek tools to make this dialogue an effective tool for creating social relations.

3. Understanding the differences necessary to build unity through a social dialogue.

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[17] Oumarou M., Tomei M., *Foreward*, in Marino S., Roosblad J., Penninx R. (eds.), *Trade Unions and Migrant Workers. New Contexts and Challenges in Europe*, ILERA Publication Series, Edward Elgar Publishing, Cheltenham, Northampton, 2017, xvii.

[18] Kazlou, A., Lerpold, L., Sjöberg, Ö., *Trade unions, refugees and immigrant labour: Has the attitude changed? The stance of Swedish blue-collar trade unions as evidenced by sentiment analysis*, in *Industrial Relations Journal*, 55, 3, 2024, 227.

[19] David N., *Migrants get unions back to basics*, in *Labour Education*, 4, 129, 2002, 71.

[20] ITUC, nt. (13).

[21] Kahmann M., *Trade unions and migrant workers: Examples from the United States, South Africa and Spain*, ETUI, Brussels, 2002, 26.

The formation of an effective social dialogue can be hindered by a number of factors, which may manifest at various levels and present a challenge at each stage. Indeed, social dialogue can emerge within institutions established to represent workers (representing the interests of migrant and native workers, which are not always aligned), as well as between institutions representing workers and those representing the employer, the public administration, and a combination of the three.

In establishing social dialogue, it is crucial to identify shared objectives that can facilitate the development of solutions to emerging challenges. This can prove particularly challenging when the parties engaged in the dialogue have been formed in entirely distinct cultural contexts. This is frequently the case in situations of labour migration. For instance, in cultures where families and work groups are held in higher regard (termed 'in-group collectivism'), other groups, such as labour unions, are often viewed more negatively. This can result in a negative impact on union membership due to the influence of group comparison processes. Conversely, in cultures characterised as *Institutional Collectivism*, there is a strong emphasis on civic virtue and collective interests.[22] In such cultural contexts, trade unions are more likely to be perceived as legitimate institutions, resulting in higher rates of union membership. It may therefore be posited that the issue of conducting social dialogue, which includes the participation of migrant workers, is of a fundamental nature and pertains to the perception of the legitimacy of unions in representing the rights of workers. In a cultural context, this may prove to be an insurmountable barrier, as trade unions are essentially social institutions and are not, just like every other institution, independent of the national culture of which they are a part. This is because the national culture plays a substantial role in establishing institutional structures.[23]

It is important to highlight that a significant obstacle to the potential for active social dialogue is the lack of linguistic proficiency, which can impede the ability of the involved parties to engage in meaningful communication and understanding. In this regard, it is crucial to adhere to best practices aimed at disseminating pertinent information to the widest possible audience. An illustrative example of such practices is the Netherlands Trade Union Confederation FNV (*Federatie Nederlandse Vakbeweging*), whose website is available in 4 languages in total translation and 20 languages in automatic translation.[24] It is important to note, however, that the dissemination of information must be based on bespoke communication channels (the existence of websites that are not visible to the target audience is of no benefit) and the style of communication must be tailored to the audience. This is a challenging task, as it requires the initial identification of target groups and the determination of the content of the information that will be appropriate for these groups.

It is only through the implementation of positive, active, and credible union policies that extend beyond the narrow definition of the interests of the local/native workforce that the objective of reaching out to migrant workers can be achieved. It is crucial to recognise the

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[22] Posthuma R. A., *National Culture and Union Membership: A Cultural-Cognitive Perspective*, in *Industrial Relations*, 64, 3, 2009, 507-529.
[23] Yildiz A., *The effects of national culture on unionization,* in *Sosyoloji Konferansları*, 2, 48, 2013, 20.
[24] https://www.fnv.nl/.

realities of immigration and to develop a more inclusive model of solidarity.[25] It is important to consider that differences in interests may exist not only between native workers and migrants, but also between different groups of migrants. Such differences may be particularly related to the region or country of origin, which often influences the legal status of migrant workers. It is therefore imperative to consider these factors when addressing the issue.

In order for social dialogue between actors from different cultural backgrounds to be effective, it is necessary to identify and implement appropriate mechanisms and institutions to facilitate its activation. Such mechanisms and institutions should provide a natural environment for the parties involved in the dialogue, enabling them to adapt their mode of communication, language, content and matters to be covered in a way that is conducive to effective dialogue.

4. Models for shaping the representation of migrants' interests in social dialogue.

As a social entity, humans are programmed to form groups and establish social relationships in the workplace. These relationships facilitate the achievement of desired outcomes more effectively than individual action alone.[26] However, the models associated with the formation of these groups can vary, as can the cultural conditioning associated with individual/collective attitudes.[27]

It is crucial to evaluate which solution will prove more advantageous in facilitating social dialogue. The initial solution may concentrate on attempting to persuade migrants to enter institutions that are already familiar to the legal system of their destination country, particularly with regard to the conduct of social dialogue. This solution appears to be advantageous from the perspective of the host country, as it merely necessitates the implementation of the established standards. Nevertheless, it appears that by implementing such a solution, migrants will be compelled to operate within an environment that is both unnatural and incongruous with their own circumstances. This may not foster the confidence and trust that are essential for effective social dialogue. It is challenging to establish a dialogue when a mechanism representing the interests of a group is imposed upon it and is not accepted by the group in question.

A second potential solution is to permit the actors that naturally emerge within migrant communities and networks to spearhead the dialogue. Nevertheless, a key issue is that such actors will not have the formal legitimacy to represent migrants. This issue gives rise to a number of further dilemmas, including the representativeness of bodies that emerge outside the legally available mechanisms and the democratic model of their operation. Indeed, it is unclear whether authority is exercised by democratically elected individuals or whether it is granted to those perceived to be the most powerful, due to factors such as class origin or material status.

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[25] Kahmann, nt. (20).

[26] Florczak I., *Psychological and historical overview of trade unions,* in *Studies on Labour Law and Social Policy*, 25, 1, 2018, 35.

[27] Yildiz A., nt. (22), 21.

It is evident that the optimal model would endeavour to identify solutions that are aligned with the expectations of migrants (and their cultural practices) while remaining within the functional capacities of the host state's legal system. It is important to consider, however, that labour migrant communities and networks in a country are increasingly diverse from within. This therefore signifies that considerable cultural divergences already exist among the migrants themselves, given that they originate from disparate cultural backgrounds. The attempt to provide them with the option of adapting the organisational structure of the social dialogue to their needs may result in a state of complete chaos and the emergence of numerous representations, created and managed in markedly different ways, which would consequently lead to the social dialogue being conducted in disparate ways.

In formulating strategies to enhance migrant participation in social dialogue, it is essential to consider the potential for conflict between migrant communities. It is therefore vital to address these conflicts in order to guarantee effective social dialogue. For example, in Poland the ongoing war in Ukraine has resulted in instances where Ukrainian citizens have refused to work with Russian citizens due to the conflict's escalation and increased Russian attacks since February 2022.[28] In situations characterised by high tensions, constructive social dialogue on other issues becomes challenging. It is therefore crucial to alleviate the cause of the tension first.

5. Conclusions.

The issues of immigration, racism and multiculturalism inevitably give rise to significant questions concerning the role of trade unions as agents of social change.[29] In light of the significant shifts observed in international migration patterns, both in Europe and globally (in terms of its size and patterns and in terms of its regulation[30]) it is evident that the existing mechanisms for social dialogue require continuous adaptation to address the evolving challenges posed by this phenomenon.

The findings highlight that the cultural context plays a significant role in shaping the commitment to engage in social dialogue and in recognizing the legitimacy of trade unions to represent the interests of working people. However, cultural differences often create challenges that make it difficult, if not impossible, to achieve organizational convergences in the conduct of social dialogue. These differences further emphasize the need to explore alternative formats for dialogue, where informal actors representing migrants active in the labor market can be included. Providing legitimacy to the interests of migrant workers through representations formed within their communities or networks has the potential to positively influence the effectiveness of social dialogue. Nevertheless, the internal diversity

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[28] Piątkowska M., *Pracodawcy mają problem. Ukraińcy w Polsce odmawiają pracy z Rosjanami. Dochodzi do konfliktów*, in *Gazeta Wyborcza*, 14 March 2022.

[29] Lüthje B., Scherrer C., *Race, Multiculturalism, and Labour Organizing in the United States: Lessons for Europe*, in *Capital & Class*, 73, 2001, 142.

[30] Marino S., Penninx R., Roosblad J., *Trade unions, immigration and immigrants in Europe revisited: Unions' attitudes and actions under new conditions*, in *Comparative Migration Studies*, 3, 1, 2015, 4.

within migrant communities and networks adds another layer of complexity, making the process of social dialogue significantly more challenging.

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