Global Workplace Law & Policy

European (Trade) Union(s) and European Integration: Quo Vadis?

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A burning post-war question that has been a source of much debate within trade union organisations is that of ‘Europe,’ which, through ‘deepening’ and ‘widening’, has changed in form and content across time. National trade unions have expressed different preferences towards ‘Social Europe’ from those advocating ‘ever closer union’ to those supporting ‘unity in diversity.’ Labour euroscepticism, a phenomenon that first characterised the EU membership debate, resurfaced in the mid-2000s in some Irish unions, but not in their Italian counterparts. My recent book, *Labour Euroscepticism: Italian and Irish Unions’ Changing Preferences Towards the EU*, explains the changing trajectory of preferences towards European integration across time from the perspective of Irish and Italian unions. The initial scepticism that unions (and their ‘sister’ parties) harboured towards European integration was replaced by a pro-European consensus, which broadly

supported the Single Market Programme and Monetary Union. This support was critical from a legitimacy standpoint, however, in the Irish case the number of dissenting voices in the labour movement had intensified coming to a crescendo in 2008 when the Lisbon Treaty was subjected to a referendum. Irish voters followed their French and Dutch counterparts, but unlike the French or Dutch, the Irish (for a second time) were told to vote again. For Giandomenico Majone, the Irish vote was 'even more surprising than the negative votes of three years before', referring to the French and Dutch votes and in the immediate aftermath it was for the established and respected EU scholar 'indeed difficult to see how the Irish voters could be induced to change their minds'. Were it not for the onset of the Great Financial Crisis, which placed Ireland in the eye of a brutal economic maelstrom, who is to know which way the second vote would have gone? Counterfactuals aside, I argue that there are lessons that remain unlearned from the Irish rejection of the Lisbon Treaty. Should these go unheeded, or at least unacknowledged, there is a distinct danger that the consequences could one day come home to roost. Perhaps they already have, if the Brexit vote is anything to go by. Hitherto, the exit option never really featured in national discourses, but the decision of the British has rendered the debate about EU *finalité* all the more important and raises the conundrum anew: *quo vadis, Europa?*

Studying Preferences Across Time

Visions of the ideal polity are 'never far below the surface' writes Jabko in his impressive book *Uniting Europe*. Polity or basic preferences are important as they 'act as cognitive maps that allow political actors to make sense of the context in which they operate … they provide normative templates … [and] legitimise some forms of political action but not others. Whereas the question of polity preferences has focussed primarily on individuals and national governments, organised labour has been largely overlooked, which is surprising if we consider the efforts by supporters of European unity, from Monnet to Delors, to include unions in discussions and solicit their approval. In the first instance, there is a need to unpack unions' broad or basic preferences on European integration. However, this 'cannot be really understood if an a-historical and static picture is taken'. This is because major developments, either through 'deepening' or 'widening' or even 'deepening through widening', can re-shape circumstances and external conditions, thereby provoking a reappraisal of the likelihood of realising one's basic preference.

If the EU is conceptualised as a reciprocal relationship between market- and polity-construction, then it can be neatly divided into three distinct time periods, of varying length, across which the preferences of Italian and Irish unions changed. Each period is associated not only with the genesis of European integration across time, but also with the emergence, disappearance and re-emergence of labour Euroscepticism, which speaks to two inter-related processes, namely, preference-formation, on the one hand, and politicisation, on the other. The term labour Euroscepticism is used quite simply to differentiate it from the well-studied phenomenon of party Euroscepticism, which is a veritable cottage industry and focuses predominantly on sovereigntist right-wing parties. It aims to contribute to a better understanding of the dynamics that are driving labour Euroscepticism and the politicization of the EU in the public sphere and to counter cultural explanations that posit labour Euroscepticism is premised along ethnic nationalist lines.

Quo Vadis Social Europe?

Much of the debate on the EU is structured around the idea of 'social Europe' versus 'neo-liberal' Europe and this is particularly true in relation to EU academic scholarship and public discourse. Yet, how the ideal of 'social Europe' is articulated can vary from labour movement to labour

movement. Hence, it is helpful to deconstruct normative models of European integration, such as social Europe. Suffice it to say here, that union leaderships are guided not only by historical legacies but also by political realism vis-à-vis other political actors, including the government. Hence, preferences are shaped by the political opportunity structure, but this only tells us how preferences are expressed rather than why. For instance, why did a growing cohort of Irish unions adopt Eurosceptic stances starting with the Lisbon Treaty? I point to what we can term as unions' coping mechanisms, which involve the industrial relations system, first and foremost, but also participation in European trade union structures as well as the development of the EU's social *acquis*, such as the Posted Workers Directive.

Despite various rounds of social partnership, Irish unions, unlike their Italian counterparts, failed to strengthen what Colin Crouch terms their 'articulation mechanisms'. The consequences of this came to light in the wake of the EU's eastern enlargement, when the 'Celtic Tiger' economy generated labour shortages that needed to be filled. The Irish (along with the UK and Swedish) government, without even consulting Irish unions, placed no restriction on the free movement of labour (and services) in 2004.

Subsequently, social dumping practices became increasingly frequent putting the pro-European consensus of Irish unions under considerable pressure. The capacity of Irish construction unions to police local labour markets was severely challenged. A clear indication is the increase in the case load of the Labour Court in 2006, which grew by 64 per cent, with a large number of the cases alleging breaches of the collective bargaining agreement in construction.

Just as the Laval Quartet, in the words of Mario Monti (2010) 'exposed the fault lines that run between the Single Market and the social dimension at national level', the proliferation of social dumping in Ireland had a similar resonance. In essence, Irish unions found themselves exposed and ill-equipped to deal with the extent of the challenges resulting from (intra-EU)labour migration.

At the time, there were almost twice as many full-time dog wardens (41) than labour inspectors (21) to police the labour market and sniff out exploitation! Whereas a number of unions attempted to grasp the migration 'nettle' by pursuing an organising model, this was very much the beginning of an uphill, learning process.

Under the rubric of social partnership, Irish unions sought to strengthen their coping mechanisms, ideally by achieving legislation on trade union recognition; however, this was resisted by employers and the government. That said, some concessions were made in the 2006 bargaining round, such as an increase in the number of labour inspectorates, which for the Irish Congress of Trade Unions, marked 'the biggest thing we have ever done of our own volition'! For a number of unions, SIPTU, Unite and Connect, the concessions did not go far enough, and the divisiveness not only marked the beginning of the end for two decades of Irish social concertation, but it also spilled over into the debate on the Lisbon Treaty with a cohort of unions, rightly or wrongly, choosing to politicise the EU and European integration by adopting a Eurosceptic stance in the Lisbon Treaty referendum.

This differed from the Italian unions, whose construction sector coping mechanisms were more robust, paradoxically as a result of organised crime, but as a consequence, transnational markets were more embedded. In particular, the DURC (Single Document of Regularity of Contributions) and mutual responsibility in the subcontracting chain, introduced in the 2000s, made social dumping more difficult. Also, a 'social clause' is included in public procurement legislation, which

requires the full application of relevant collective agreements. This is not to suggest that the Italian situation is ideal, far from it. The threat of social dumping remains very real in Italy, however, the aforementioned provisions have been rather successful in thwarting social dumping so much so that the EFBWW, European construction union, lauds the Italian DURC system as 'best practice' in the fight against the nefarious phenomenon.

In short, I argue that there is a feedback loop between a union's direct experience with European integration, as a transnational socio-economic process, and their broader preference towards the European project. Despite having expressed concerns to the government about the lack of consultation on post-enlargement labour mobility, the dearth of labour market regulations and the increasing prevalence of social dumping, a number of Irish unions argued that they could no longer back the Lisbon Treaty. The construction union Connect publicly cited the CJEU Laval Quartet rulings as justification for its Euroscepticism. However, these controversial rulings were used primarily as a framing device to avoid the charge from hostile media that unions were putting sectional interests above the so-called national interest.

Post-referendum analysis of the first Lisbon referendum shows that voting was 'heavily class-correlated' and that the single most important issue that concerned voters, regardless of whether they voted for or against, was working conditions. Nevertheless, the pro-business government was prepared to sacrifice tripartism in 2009 rather than strengthen the regulatory coping mechanisms of Irish organised labour and in a strange twist of fate the financial-cum-sovereign-debt crisis came to the rescue, thereby saving the EU from a constitutional crisis. The second Lisbon Treaty referendum took place under very different circumstances and against the backdrop of the deepest economic crisis since the 1929 Depression. Unsurprisingly, Irish voters endorsed the Lisbon Treaty and the subsequent Fiscal Compact in 2012, although the number of Eurosceptic unions increased with even the ETUC rejecting the Fiscal Compact. How European integration should be handled as a socio-economic and political process remains an open question. Engagement at the European level by unions is critical, but not a given. Certainly, there is scope for engaging in social dialogue committees, particularly at the sectoral level. For instance, the construction social partners (EFBWW and FIEC) discuss questions pertaining to construction, from the mobility of workers to the posting of workers to health and safety issues. Construction social dialogue is one of the more active committees. Participation by national unions is obviously of utmost importance. Here, certain Irish (Eurosceptic) unions have been absent from such fora, which can help explain their emphasis only on the national level.

Ironically, the former contained Article 50, which created the framework for the UK leaving the EU. Since the bombshell of the Brexit result in 2016, the portmanteau of Ir-exit and It-exit has featured in debates. Notwithstanding, the EU has still attempted to weaken the positions of unions and dismantle their coping mechanisms through its new economic governance regime. These interventions, counter-intuitively, paved the way for the recent Directive on Minimum Wages, which envisages an important role for collective bargaining, a critical coping mechanism in a borderless world. Despite having established a tripartite Labour Employer Economic Forum to 'examine what is required to implement the collective bargaining elements of the Directive', the government is dragging its feet. By strengthening unions' coping mechanisms, the government would only be minimising the scope for social dumping and bolstering the prospect of a 'social Europe' once again. At the time of writing, the Irish are going to the polls. Might a new government seek to learn the lessons of *Labour Euroscepticism* and embed the transnational market through social protection? One can only hope.

This entry was posted on Wednesday, December 4th, 2024 at 7:00 am and is filed under Ireland, Italy, Trade Union, Uncategorized
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