collective agreements and for tripartite cooperation, and ways of offering the service at low cost. Perhaps most important is the idea that trade unions could, by taking the initiative to provide such a service in improving health and safety in small enterprises, contribute to their own regeneration and regain lost ground.

There are two *perspectives* in this issue — on very different subjects. The first explains the operation of the ILO's supervisory machinery in the particular case of the application of its Convention No. 29 on forced labour in respect of Myanmar (formerly Burma). The ILO has just released the report of its recent Commission of Inquiry in Myanmar, which cites continuing abuses. In this *perspective*, Patrick Bollé explains the nature of the instruments and of the escalating procedures available to the ILO in such cases of persistent non-compliance, and then presents the principal evidence of violations, the recommendations of the Commission, and the Government's reply.

In the second *perspective*, Jeanne Mager Stellman describes the purpose and the contents of the ILO's most significant publication — the massive, 4-volume (or CD-rom) *Encyclopaedia of Occupational Health and Safety* (4th edition), of which she is the Editor-in-chief. This multidisciplinary tome contains an enormous range of information of relevance to just about everyone, specialist or not, of most any age. Hazardous chemicals, most diseases and possible injuries, ethical issues, social problems, management — it is difficult to imagine any relevant question that is not dealt with by the more than 1,000 contributors, leading experts in their fields.

Finally, this issue concludes with a substantial *books* section, with reviews and notes on subjects as diverse as education and training, corporate restructuring, migration, new forms of work organization, violations of trade union rights, welfare reform, health and safety, radical unionism and racism as well as new ILO publications on HIV/AIDS, child labour, workers' education on international labour standards, maritime labour Conventions, safety and health in forestry, the sex sector, violence at work, work organization and ergonomics, and employment.

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The labour market: A lawyer's view of economic arguments

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The broadest possible protection of workers through peremptory standards or standards of public policy — considered by orthodox labour lawyers to be a positive value — is a negative value in the eyes of orthodox economists, given that such protection prevents the market from operating freely and therefore efficiently. Conversely, formal freedom and autonomy of individuals are considered positive by the orthodox economist but negative by the labour lawyer, who sees in them an inherent risk of dominance of the weak by the strong. How, given these contradictions, can a common language be found and dialogue established between orthodox economists and orthodox labour lawyers?

Over the past century, the legislators and trade unions of continental Europe found an effective means of countering workers' weak labour market position by building up a system of protection with two main objectives. The first was to prevent employers from negotiating workers' conditions of employment on a one-to-one basis, by imposing on both parties, through legislation and collective agreement, a standardized (model) arrangement of their mutual interests in the form of a binding contract. The second objective was to ensure that a worker who has been hired by an enterprise remains as far removed as possible from the labour market, hence the prevailing model of the stable employment relationship of unspecified duration. Although this system functioned well for decades, it is less effective today in the more developed countries, particularly in those of continental Europe. The notion of a permanent job guaranteed for life increasingly appears to be incompatible with the very rapid obsolescence of technologies and changes in production systems and, although standard models of work organization are regularly updated and adjusted, they cannot keep pace with those changes. As a result, the scope of legislation supporting trade union involvement in enterprises and statutory protection of workers is constantly shrinking. The working population is thus becoming divided between a group of insiders enjoying protected regular employment and a group of outsiders comprising temporary and casual workers and the unemployed — some of them in a state of permanent exclusion.

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Through conversations with economists, the possibility has occurred to lawyers that the market could be transformed in such a way that, instead of constituting a threat for workers, it may offer them — including the more or less permanently excluded — a means of strengthening their bargaining position. This calls for experimentation with new forms of protection which, without being incompatible with, or aiming to replace the traditional forms, would make the requisite information and services generally available, minimize transaction costs (search, information, negotiation, etc.) and make transactions transparent.

However, even in a mature labour market that is well-provided with services for workers, labour law remains indispensable, even in the thinking of orthodox economists. On grounds of public interest, sound reasons still exist — as evidenced in theory by particular economic models — for maintaining the contract of employment as a form of insurance for workers. And the contract can perform this function effectively only through the enforcement of peremptory rules. A general "safety net" is thus still necessary and should be extended to all those who work for their living, including those working outside the sphere of employer-employee relationships.

The same goes for trade unions. It is indeed in the interest of all workers that a coalition should defend their rights, both in the labour market and at the workplace, and represent them effectively in negotiations on their conditions of employment. Once the fundamental rights of all workers on the labour market and their protection within the contractual relationship are guaranteed ("safety net"), collective autonomy and individual autonomy must be brought to coexist and complement each other. Similarly, trade unions will have to learn to represent and promote the interests of outsiders as well as those of insiders. This may indeed prove to be an area in which labour lawyers and orthodox economists can find common ground. This article very briefly summarizes personal thoughts on the subject.

The justification of labour law

The first question that arises is: What is the justification, in terms of economic rationality, for state intervention in imposing conditions on employment relationships, i.e. the establishment of a standard of treatment (and, specifically, the distribution of risk between employer and worker) through rules from which private autonomy can make no exception?

The first answer to this question offered by economic science is based on the concept of structural monopsony — a market consisting of a single buyer and a large number of suppliers. This was precisely the situation of the original labour market at the outset of industrial development, when the factory was a "cathedral in the desert" — the desert of an almost exclusively agricultural economy in which workers were for the most part underemployed. Orthodox economists agree with labour lawyers and trade unionists that a monopsonic labour market does not produce optimal outcomes. Indeed, the employer buys

less labour — engages fewer workers than he/she could — and pays them less than if other employers were competing for the available labour. In a monopsonic market, therefore, the purpose of legislation or collective agreement is to impose a peremptory standard of treatment — such as obligatory maximum working hours and a minimum wage — which will improve the general well-being.

This is the justification for labour law that is given, more or less explicitly, in the introductory chapters of most texts on labour law. However, the structure of the European labour market has certainly changed since the beginning of the industrial revolution. A large number of enterprises are now competing for labour. The former justification, based on the model of the monopsonic market, no longer suffices.

Labour law as protection for insiders

An alternative view, although by no means a justification of labour law, is that based on the model suggested by Lindbeck and Snower (1988), better known under the name of the "insider-outsider theory". This theory explains the basic workings of the labour market by viewing trade unions and labour law as instruments that enable workers in a stable situation (insiders) to protect themselves against competition from unemployed, casual or temporary workers (outsiders). This theory considers legislated or collectively agreed minimum conditions of employment as means of reducing the potential advantages of replacing an insider by an outsider. Restrictions on dismissal are regarded as a further means of increasing the cost of such substitution.

To someone who has worked for trade unions for several years, who has devoted a lifetime to labour law, and who considers it to be a prime expression of civil progress and solidarity between citizens, it is unpleasant to be told that trade unions and labour law may serve to protect the privileges of the most fortunate workers to the detriment of the excluded. In this view, trade unions and labour law would be primarily an expression of the selfishness of the richest workers towards the poorest.

The common interest model

Rejecting the model based on the conflict of interests between insiders and outsiders, economists who are closer to the trade unions offer models based on the idea that the two groups have a common interest in state intervention and collective bargaining, whether for establishing minimum conditions of employment, for reducing disparities in earnings between workers, or for apportioning to wages the largest possible share of the value-added produced. According to them, the fact that outsiders currently benefit neither from state-enforced protection nor from trade union protection does not in itself imply that they have no interest in maintaining or even in strengthening such protection. Indeed, they may expect to benefit from it in the future. If outsiders can

Table 1. Long-term unemployment rates and standardized unemployment rates in selected European countries and in the United States (1997)

Country	Long-term unemployment rate [1]	Standardized unemployment rate
Italy	66.3	12.1
Belgium	60.5	9.2
Portugal	55.6	6.8
Spain	55.5	20.8
Netherlands	49.1	5.2
Germany (1996)	47.8	8.9
France	41.2	12.4
United Kingdom	38.6	7.1
European Union	50.2	10.6
United States	8.7	4.9

[1] 12 months or longer, as a percentage of total unemployment.

Source: OECD, 1998, Statistical annex, tables A and G; OECD: *Standardized unemployment rates*, Press release, Paris, 15 Sep. 1998.

perceive that anything that contributes to maintaining at a high level or even enhancing the peremptory standards of treatment for those in regular employment will ultimately be to their advantage.

The dual nature of the labour market in Italy and other European countries

The problem for outsiders lies in the fact that the labour market in continental Europe, and in Italy in particular, is characterized by very limited interchange between insiders and outsiders.

In this respect, the situation of the Italian labour market is hardly enviable, as demonstrated by the figures in the table 1. In 1997, Italy, with a high overall unemployment rate, had almost seven unemployed workers out of ten (66 per cent) unemployed for over a year (classified under ILO and OECD criteria as long-term unemployed); six out of ten were seeking their first job; and five out of ten were under 25 years of age. In Italy — particularly in the southern regions — the unemployed are mostly young people who encounter serious difficulties in entering the job market, or adults who have been unemployed for a considerable period and whose difficulty in finding another job increases year by year. The situation is slightly better in other European countries, with long-term unemployment rates of 55.5 per cent in Spain, 49 per cent in the Netherlands, 48 per cent in Germany (1996), 41 per cent in France, and 39 per cent in the United Kingdom. Yet these figures still highlight a major divergence between Europe and the United States where, in 1996, only 9 per cent of the jobless were in the long-term unemployed category.

Empirical studies have revealed a striking positive correlation between the average duration of unemployment among outsiders and the duration of

Portugal, 1998). Of course, this does not necessarily imply a positive correlation between the stability of employment of insiders and overall unemployment.

From this marked duality of the labour market, and the remote possibility that outsiders will find stable employment, it would be reasonable to conclude that, at least in Italy, a large majority of such workers are unaffected by the maintenance of protective legislation or public policy or by legislation which encourages unionization in large or medium-sized enterprises (except as an ideological choice which has nothing to do with their economic interests).

In the current economic system, raising conditions of employment above a given level entails not only a narrowing of the labour market segment to which they apply, but also a restriction on access to that segment. The most significant example is clearly that of restrictions on dismissals, the aim of which is to improve conditions of employment and to protect the dignity and moral freedom of the worker by preventing the employer from acting arbitrarily. However, such restrictions not only reduce the likelihood that an employer will hire further workers (given uncertainty regarding future demand), but they also increase the cost of replacing insiders, with the result that the competitive position of outsiders is further eroded. It might therefore be assumed, at least for the short and medium terms, that negative correlations exist both between the level of protection and the number of people who have access to that protection, and between the level of protection and the ease with which those who benefit from it may change places with those who do not. This is another reason, in Italy at least, why millions of outsiders have no interest in the general system of employment protection.

These considerations must be borne in mind when discussing worker protection. Stability of employment, for instance, may be very important for insiders, but it hampers outsiders' access to regular employment. Consequently, job stability should be protected not as an absolute value, but as a relative value, in the sense that outsiders may be paying the price for the stability of insiders.

Similarly, under a system of collective bargaining that covers all workers (i.e. negotiation with *erga omnes* effect, as in France) it is necessary always to consider who benefits from collective agreements. Lest such agreements reflect insiders' concern to protect themselves from the competition of outsiders, instead of the common interest of the two groups, it is essential that both somehow be represented at the negotiating table. For an agreement to have *erga omnes* effect, it must be concluded by a trade union confederation whose representativeness is demonstrably not confined to insiders. This was the approach put forward by Solow (1990) and of which the present author has suggested a practical application in the context of industrial relations in Italy (Ichino, 1996). A prior condition for the *erga omnes* effect of collective agreements is that the signatory unions must represent the majority, their representativeness being measured not only in enterprises in terms of numbers of workers, but also on the basis of regular consultations with the unemployed, organized by the public

To date, labour lawyers have said little about the price paid by outsiders for the protection of insiders. But a price certainly is paid, and this may well explain the recent waning of Italy's popular consensus in support of labour law and trade union organizations. In a referendum in 1995, 66 per cent of Italians voted for the repeal of a legislative provision intended to strengthen trade union presence and activities at the workplace level.

Information asymmetry

In Italy — though the same arguably applies to much of continental Europe — the model based on the conflict of interest between insiders and outsiders appears to provide a more accurate reflection of labour market reality than does the model of common insider-outsider interests. This does not, however, give sufficient cause for denying the economic rationale for the mandatory limitation of competition between workers.

Economics teaches that perfect competition can only exist if information for both sides of the market is perfectly symmetrical. But such symmetry of information is precisely what the labour market lacks most.

The employer's lack of information

The first asymmetry to emerge relates to the information available to the employer and to the worker regarding the latter's personal qualities: the worker is fully aware — certainly much more aware than the employer — of his or her own ability to adapt to new situations, chances of falling sick, or reproductive plans. The model developed by Aghion and Hermalin (1990) around this asymmetry is extremely interesting for labour lawyers because it explains the positive function of labour law as a means of distributing the risks of negative eventualities between the worker and the employer in the best possible way.

In the absence of a law or contract that restricts the employer's right to dismiss workers, the risk of failure to carry out a task or to produce a result — for example, the risk of interruption of service by reason of illness or childbirth (i.e. absence), or the risk of skill obsolescence — is borne solely by the worker, since failure to provide the service would entail dismissal. A contract restricting the employer's freedom to dismiss workers transfers at least part of the risk from the worker to the employer, even if it also provides for lower earnings (which can be seen as an insurance premium paid by the worker). Such a contract thus strikes a balance of interests in this respect. A law (or collective agreement) which imposes such a transfer of risks by restricting the employer's freedom to dismiss workers is justified in that workers negotiating their employment conditions might otherwise refrain from demanding a clause restricting the possibility of dismissal for fear of identifying themselves as "risky" individuals. Given the imperfect information available to enterprise managers regarding the qualities and characteristics of workers offering their services, the latter would be tempted to make a show of great confidence when negotiating

provide a service or produce a result, or of other negative eventualities, would then subsequently be borne by the worker.

In other words, in the absence of a state-imposed requirement that the employer should assume a share of the risk — thereby automatically attributing an insurance function to the employment contract — the market would not of its own volition optimize transactions in terms of the respective parties' exposure to risk. Employment contracts would imply greater security for enterprise managers, who are typically more inclined to take risks, and greater insecurity for workers who are generally more inclined to seek security.

It should be emphasized that while this model justifies the requirement that risk should be shared between the employer and the worker (i.e. a restriction on the freedom to dismiss), it does not justify peremptory standards regarding minimum wages. Thus, the same reasoning cannot be applied to all provisions of labour law.

In regard to the insurance function of the employment contract, it is also interesting to note that this reasoning implicitly denies the rationale for any distinction between the peremptory standards governing employer=employee relationships and those governing self-employment in cases where there is a continuous relationship with a single contractor.

But this line of reasoning also highlights the fact that any restriction of the employer's freedom to dismiss turns the employment contract into an insurance contract, with a trade-off taking place between stability of employment and level of earnings (because of "the insurance premium" that the worker pays the employer). The imposition of stability of regular employment therefore implies a cost not only for outsiders (in that it becomes more difficult for them to gain access to the protected sphere), but also for those it protects, since it reduces their earnings. This may go some way towards explaining the deliberate "flight" of workers out of employer-employee relationships and into self-employment in countries where stability is most rigidly imposed (on this correlation, see Grubb and Wells, 1993; on the characteristics of this phenomenon in Europe see Loutfi, 1991; OECD, 1992, chapter 4, pp. 155-194).

The worker's lack of information

A second information asymmetry which can serve to explain the positive role of labour law (and which is also acceptable to orthodox economists) is a counterpart asymmetry to that discussed above. Here, the information concerns not the quality or characteristics of the worker but supply and demand on the labour market, a matter on which the employer has more information than the worker.

The employer is familiar with the labour market, since he or she is regularly in touch with it and can thus select workers from a broad pool of labour. The worker, by contrast, is generally not familiar with the labour market since he or she may only have to enter it a few times in the course of his or her lifetime. Just as a foreigner alone in an unknown country must accept the deal

night in the open, so the worker, on a market on which he/she does not know how to behave, must accept the first job on offer for want of any other solution. This accounts for workers' fear of the market and their weak bargaining position, which are a direct consequence of their limited range of choice, even when the market features a large number of employers competing for labour. So, although the market may have the potential for perfect competition on the demand side — which would enhance workers' bargaining position — scant information on possible choices and the inadequacy of services to disseminate information make the labour market a *de facto* monopsony. In other words, the employer benefits from the fact the worker is not in a position to choose. And this applies both to the initial phase of negotiation on conditions of employment and to the phase consisting of the employment relationship itself.

The *dynamic monopsony* model is based on these considerations. It explains the dysfunctions of a labour market that is left to itself in a developed economy and shows that peremptory rules are needed to correct the ensuing distortions. For example, Card and Krueger (1995) used this model to explain why the imposition of a minimum wage did not have a depressive effect on employment levels in the United States.

The disequilibrium of the labour protection system

The very purpose of labour legislation is to correct distortions of the free market. However, since it is primarily enacted in response to demands by insiders and organizations defending their interests, labour legislation — like trade unions — tends to protect workers who are already in employment, not workers on the labour market. Workers enjoy adequate assistance within enterprises once they have succeeded in obtaining employment, but the assistance available to them outside, on the market, is totally inadequate. In this sense, the labour law of continental Europe — with the possible exception of Sweden — can be said to lack one of the two pillars on which a modern labour protection system should rest; and over-emphasis on one of the two components of the system — i.e. protection of workers in employment relationships — does not make up for the inadequacy of the second, i.e. worker protection on the market.

This structural imbalance, in turn, seriously undermines the effectiveness of the standards that protect workers in employment. Indeed, a worker in a weak and isolated position on the labour market is likely to end up in a weak position in any contractual relationship with an employer. A person who fears the labour market will also fear his/her employer to some extent; he/she will be disinclined to stand up for his/her rights and, in the absence of an alternative solution, will submit to the employer's terms. Of course, there are other solutions; but workers are not in a position to resort to them, for lack of information and for lack of the services needed to obtain information (particularly information and retraining services that could direct workers towards opportunities on the job market).

According to another, now classic theory, workers' lack of information can constitute an excessively high transaction cost, which prevents the market from functioning at maximum efficiency (Coase, 1960). In economic terms, this explains and justifies peremptory intervention by the State, although the same theory holds this to be merely a lesser evil since the imposition of a mandatory balance of interests between two individuals will necessarily produce results which are less efficient than those that would have been achieved by a competitive market if transaction costs could be eliminated.

If transaction costs could be removed, the labour market might cease to be a source of weakness and danger for workers and instead become a source of greater freedom and enhanced bargaining capacity. If the market were equipped with a dense network of efficient services, rid of its innumerable pitfalls, and turned into a more accessible and safer place that was easier to understand, it could offer workers the best possible means of utilizing their skills and fulfilling their aspirations.

What the long-term unemployed lack most is indeed information and access to the opportunities available on the market, vocational training which could equip them to apply for jobs, and services to facilitate geographical mobility and thereby enhance their chances of finding a suitable job. If new forms of protection were to be tested — consisting not in imposing obligations, but rather in making information and the necessary services widely available and in making transactions transparent — the market might be able to provide everyone with access to regular employment, including for those who are now more or less permanently excluded. If the latter were granted priority access to such services, they would indeed be placed on a more even footing with workers in a stronger position.

Suggestions for achieving a better balance

To strike a better balance between the interests of insiders and those of outsiders, the labour market must be strengthened by a wide range of public and private services which, though in competition, should all be permanently networked so as to constitute an overall observatory of supply and demand and to serve as a structure through which the two can meet. Indeed, Italian legislators drew inspiration from this idea when they passed Act No. 469, of 23 December 1997, which requires all public and private employment services to hook up to a national computer network and to use it daily to communicate all available information on the nature and volume of demand for and supply of labour. Within such a framework, the duty of the public employment service and of the services administered by trade unions, non-profit organizations and local authorities should be first and foremost to reintegrate the weakest workers and provide them with genuine leverage in bargaining and competition by compensating for their occupational, cultural or social weakness through the provision of a surplus of what they most need, namely, information, training and mobility. A market rendered efficient by a system that reduces transaction costs to a minimum for all workers — and particularly for the weakest and most

disadvantaged — would offer them the most reliable means of emerging from exclusion. And here the distinction is not between public services and private services, but between services that are provided openly and services that are provided to the grey market and which cannot sustain such transparency (ILO, 1994, pp. 52-53 and 56-58).

Obviously, an economic development policy that seeks to create jobs remains essential in combating unemployment. But job creation alone cannot, and never could, eliminate the disadvantages suffered by those who are the worst off. Therefore, it is essential that they should be offered real equality in terms of information, training and mobility — in short, what is understood today in European Union parlance by "employability". It is not simply a matter of appealing to workers' individual responsibility, but of ensuring that all workers — and particularly the weakest — have the means of exercising that responsibility (Sen, 1997).

It should be emphasized, moreover, that such a policy may achieve notable results in terms of social equity, even in a situation of permanent imbalance between the supply of and demand for labour. Take a hypothetical rate of unemployment of 10 per cent.[1] It can mean either of two quite different things. It could mean that each labour force participant can expect an average of six months' unemployment for every five-year period of work; or it could mean that 10 per cent of labour force participants are excluded from employment for protracted periods, with the other 90 per cent occupying all the jobs offered on the market. While economic development policy should seek to reduce the level of unemployment, the aim of "employability" policy is, for any given level of unemployment, to distribute the risk of unemployment fairly. In other words, it must create a situation in which all workers — and not only 90 per cent of them — stand a chance of obtaining the jobs offered day by day by the economy.

Besides, the underprivileged will not be the only ones to benefit from the effectiveness of the labour market services provided through such a policy. Since lack of information and occupational and geographical mobility have always been among the principal reasons for the general imbalance between the bargaining positions of workers and employers, these deficiencies must be corrected if that imbalance is to be eliminated or significantly reduced. Indeed, a labour market offering a network of efficient services and underpinned by widely available education could go a long way towards redressing the balance between the bargaining positions of workers and employers. The fairness of the transaction may be assured, on a mature market, by guaranteeing symmetry of information between employers and workers, transparency of negotiations between them and qualified assistance in such negotiations. And the outcomes could be more efficient than those achieved merely by imposing a standard model of employment relationship through state-enforced public regulations.

It is already apparent today that competently advised workers who are fully informed of their rights, of standard employment conditions on the national and local job markets, and of the occupational options available on the market are effectively in a position to choose the time, mode and place of work best suited to their interests. Such workers are emancipated, mature and equipped to negotiate with their prospective employers; they are not afraid of the market. The bargaining strength of workers will be further enhanced if all are offered assistance and equal access to information, just as the range of their options will be extended if they have access to appropriate services to facilitate their mobility and to provide them with training that helps them to find real jobs. The new forms of protection concentrate on boosting the bargaining power of workers in general, so that all of them — and not just those who were the best off to begin with — are put in a position optimally to administer their own interests as mature individuals.

[1] A figure which is, moreover, that of the average level of unemployment in the European Union as at August 1998.

Once the "safety net" is ensured for all — i.e. the three fundamental labour market rights (information, training and mobility) and essential protection in the employment relationship — it will be possible to give everyone freedom of choice between the many possible models for combining interests. These range from situations where the employer accepts inflexibility and an obligation to provide greater security to the worker in exchange for a lower wage, to situations where the worker offers greater flexibility in exchange for higher pay. With inalienable rights thus guaranteed, the labour market could fully become a market for working time, for flexibility and stability of that working time; a market in which different models of organization and of worker participation in the enterprise can be compared and placed in competition; a market on which all individuals — both workers and employers — can opt for what best suits them.

Trade unions would also have an important role to play in such a job market. Trade unions are much needed by workers — even before representing them in their relations with an employer — to assist them in the labour market by guaranteeing compliance with their rights to information, training and mobility. In this sphere, it will be possible for trade unions to serve not only the relatively restricted circle of workers in large enterprises or in the public sector — as occurs today in most cases — but also others who are excluded from this circle and are today in the majority.

Collective bargaining on conditions of employment will continue to be the typical and essential function of trade unions, since individual workers can never have as great a knowledge as trade unions do of the state of the economy, the position of the enterprise on the market and the countless circumstances affecting employment relationships. However, on a mature labour market that is well provided with services, it will be possible to do away with the traditional concept of collective autonomy as a negation of individual autonomy or a "colonization of the individual by the collective" (Simitis, 1990). The role of collective bargaining should come to concentrate less on imposing peremptory rules on the organization of employment relationships, leaving more scope for individual contract, because a wider formal freedom for the worker implies real bargaining strength and effective freedom of choice.

Conclusions

The following conclusions are offered tentatively, without any pretension of certainty.

The model of a dual labour market teaches that, in a mature economic system, an inverse correlation generally exists between the level of protection of stable employment and the ease of access to protection by those who are excluded from such employment; legislation and collective bargaining should therefore always take into account all the interests at stake, not exclusively those of insiders.

Nonetheless, insiders and outsiders may have a shared interest in maintaining high wage levels and job stability, imposed by law and collective contract, under the common interests model; however, this applies only if outsiders have a real prospect of obtaining stable employment within a reasonable period.

The model formulated by Aghion and Hermalin (1990) demonstrates that the asymmetry of information on the personal qualities of the worker causes a distortion in the functioning of the free market which should be corrected by state-imposed or collectively agreed regulations which transfer to employers a share of the risk borne by workers (who are on average less inclined to take risks than are employers); here, some restriction of the employer's freedom to dismiss is certainly necessary and justified.

However, job stability is also a relative value, not an absolute one. Any restriction on the employer's freedom to dismiss turns the employment contract also into an insurance contract, whereby a trade-off takes place between stability of employment and the corresponding wage level. Indeed, job stability carries a cost not only to outsiders — by making it more difficult for them to enter the protected sphere — but also to insiders in that their earnings are reduced (the "insurance premium" that the worker pays the employer).

The dynamic monopsony model, which fits the situation in most developed countries more closely than does the structural monopsony model, shows that the asymmetry of information on labour supply and demand also produces a distortion in the functioning of the free market in these countries. This may be corrected by offering all workers on the market a plethora of information, training and mobility services, rather than through rigid regulation of the employment contract.

The costs and benefits of every public policy standard, of every article of labour law and trade union law, of every trade union action should always be carefully assessed not only in so far as they affect those in stable employment, but also as to their implications for those who are excluded. This is a difficult exercise both for lawyers and for economists, since it simultaneously requires economic expertise and legal expertise, one of which they lack. But this exercise is essential to meet the urgent need to shift the centre of gravity of labour law away from protecting workers in their contractual relationship with the employer and towards protecting all of them on the labour market. This does

a worker who is strong and self-confident on the market will also be strong and self-confident in the workplace.

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