

# Motives and measurements:

Some research questions on labour  
market regulations

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# Conceptual bias:

*The dominance of insider-outsider theory*

- LM institutions as the products of insiders' rent-seeking activities
- Lindbeck and Snower (2001) on its implications
  - The focus is now on “unequal power” (hence, levelling the playing field) among workers (not on workers vs. employers)
  - Direction: “Power-reducing” policies: deregulation
  - Scale: “Bold” (rather than “timid”) labour market reforms

# Costs! Costs! And costs!

*Where are the benefits?*

- Predominant concerns about costs
- Benefits are often ignored, especially in empirical studies (mentioned but not analyzed)

“The intellectual support for ... far-reaching labour market deregulation ... can be traced to investigations that assume ... a perfectly competitive labour market. Though such an approach might be useful in mapping out the costs of labour market institutions, it has nothing to say about potential benefits” (Agell 2004, p. 60)

# Reverse causality?:

## *Cantillon's rooster*

- A fable: After years of “cock-a-doodle-do”, a rooster began to believe that crowing induces the sun to rise (Freeman 2007, warning against overestimating the influence of union, business etc)
- A similar fate for LM institutions?
  - History tells us: High unemployment → employment insurance schemes
  - The current debate is on: Employment insurance schemes → high unemployment
  - CF. employment protection laws and practice

# Institutionalists' views

*What are they?*

- “Distortionists” vs. “institutionalists”
- Institutionalists: labour regulations as a response to market failures, therefore pursuing *both* redistributive *and* efficiency objectives
- Evidence: overall,
  - Positive on redistribution?
  - Ambiguous on efficiency?

# More work on rationales

*Go beyond "market failures"*

- Usual suspects
  - Monopsony and market power (Manning 2003)
  - Externalities
  - Information failures (asymmetry)
- How to bring these into economic analysis?
- What economic models for empirical analysis?
  - Pissarides, Agell, Bertola, etc

# Further elaborations:

## *Examples*

- Cognitive bias: “optimism bias”
  - inducing workers underestimate risks (Jolls 2007; Akerlof and Dickens 1982)
- Externality associated with employment itself
  - *Social* value of employment is larger than *private* value, leading companies to make *socially inefficient* decisions on layoffs (Cahuc and Zylberberg 2006)

# Further insights

## *Incentive effects of LM regulations*

- More risk needs more protection?
  - Risk-averse workers need “insurance” through LM institutions → If workers need to take more risks, there needs to be better “insurance” (Schmid 2006)
- LM regulations as improving workers’ capabilities (Deakin and Wilkinson)
- Some (e.g., minimum wages) may induce more investments in skills
- Difficulty in operationalizing some of these incentive effects for empirical studies

# Institutional design

*Tradeoffs: you cannot get them all?*

- Go beyond distortionists and institutionalists, recognizing “tradeoffs” between efficiency and equality
  - Need for a balancing act: matter of voters’ preferences? (Krueger 2002, cf. Agell)
  - “Optimal” level of inequality?
    - Distinction between “good” and “bad” inequality (Krueger, Ravallion etc): tautological distinction?

# Institutional design

*Institutional complementariness: looking at a big picture?*

- Search for “optimal” LM institutions (Blanchard, Auer, etc)
- Some institutions are “overloaded” due to the lack of other supporting institutions
- Employment protection laws
  - $\leftrightarrow$  social security schemes
  - $\leftrightarrow$  layoff taxes
- Minimum wages
  - $\leftarrow \rightarrow$  income support schemes
  - $\leftarrow \rightarrow$  negative income tax schemes

# The 'social goal':

## *Some labour law perspectives*

- The economic impacts of labour standards dominate in the contemporary policy debates
  - social and economic objectives are often presented as mutually exclusive (at least to the extent that they can be realized through labour laws).
- The dominance of economic objectives for labour regulation has always been reflected in debates around substantive standards.
  - often a merging of social and economic objectives
  - e.g. first set of ILO standards (Murray 2001).
- Perspectives drawn from contemporary labour law theory offer ways of conceptualizing labour law rights as fundamental or labour regulations as merging both social and economic objectives:
  - 'Labour rights as human rights' (e.g. Alston 2005; CE 2005)
  - The Capabilities Approach as suggesting a role for social rights in enhancing capabilities (e.g. Browne et al 2002)
  - Labour rights as an 'input into productivity' – a case for regulatory intervention as generating long-term economic gains (Deakin and Wilkinson 1991, 1992, 1994, 2000).

# The 'social goal':

## *Implications for the contemporary debates*

- These perspectives on labour standards are
  - a minor theme/absent from the contemporary debates
  - unlikely to be captured by the methodologies used to measure and compare labour laws.
- The contemporary analysis of labour law “has been mostly conducted within a framework that does not justify its existence” (Pissarides 2001).
- Drawing on these literatures offer starting points for considering what is missing from efforts to evaluate domestic standards.
- And in particular, to consider whether there is a need to integrate social goals in this evaluation, e.g.:
  - health and safety
  - the preservation of family life
  - gender equality
  - protecting social and community life.

# Rigid or porous regulation:

*What crisis is labour law in?*

- Contrast between economists' and labour lawyers' sense of labour law as 'in crisis.'
  - economists: labour regulations 'too rigid.'
  - labour lawyers: problem of legislative scope.
- Concerns around:
  - non-standard/precarious workers (part-time, semi-dependent, temporary, temporary agency workers) (Rodgers and Rodgers 1989; Fudge and Owens 2006)
  - small firms (Fenwick forthcoming)
  - informal economy
  - enforcement mechanisms.

# Fragmentation and labour market governance:

## *The status of non-standard workers*

- Indicators assume the 'standard' worker
  - e.g. *Doing Business* – full-time, permanent, male employee.
- Extension of measurement techniques to developing economies intensifies concerns about the model of the worker.
- As the deregulatory discourse dominates the international debates, the position of 'non-standard' workers is overlooked.

# Legal casualties:

*'Non-core' rights in the global debates*

“Beyond adopting and enforcing [the ILO’s fundamental principles] governments struggle to strike the right balance between labour market flexibility and job stability. Most developing countries err on the side of excessive rigidity, to the detriment of businesses and workers alike” (World Bank 2005)

# Legal casualties:

## *'Non-core' rights in the global debates*

- Potential for core standards to be viewed as the central features of acceptable labour market regulation, rather than an absolute minimum of protection (Alston and Heenan 2005).
- Disregards:
  - central elements of the international labour code;
  - significant domestic standards;
  - some of the primary concerns about the impact of globalization.
- Question for the ILO: how to reassert the significance of 'non-core' rights (employment protection, working hours, wages etc.)

# 'Flexibility,' rigidity and legal regulation

- Simplistic depiction of a flexibility/rigidity dichotomy.
- Overlooks:
  - Interrelationship of legal standards/other labour market policies in domestic regimes (e.g. annualized hours) (Bosch and Lehndorff 2001)
  - Worker-oriented forms of flexibility (e.g. flexitime, time-banking, rights to work part-time etc.).

# *De jure v de facto standards:* *Capturing 'observance'*

- Central problem: capturing the influence of domestic legal standards (especially in less developed settings).
- Policy contentions are based on indices that reflect the legal texts
  - assuming their comprehensive application
  - with a further assumption of their impact.
- Used to argue that DCs are adopting standards suited to countries at higher levels of development.
- e.g. Working hours standards
  - measured the effect of the primary weekly hours limit
  - found influence unrelated to income-levels (Lee and McCann 2008).
- New aim for measurement?: comparing effectiveness (rather than the presence) of domestic standards
  - and identifying the *factors* that contribute towards effective regulation in countries across different income levels.