Transfer: European Review of Labour and Research

http://trs.sagepub.com/

The World Bank's Doing Business Report: A last fling for the Washington Consensus?

Peter Bakvis

Transfer: European Review of Labour and Research 2009 15: 419
DOI: 10.1177/10242589090150031301

The World Bank's *Doing Business* Report: A last fling for the Washington Consensus?[1]

Peter Bakvis*

E

Summary

The Washington Consensus policies of privatisation and deregulation promoted by the international financial institutions (IFIs) became increasingly controversial during the 1990s, and in 2004 the World Bank's president declared the consensus to be 'dead'. However, a new push for across-the-board deregulation, notably in the area of workers' protection, started in 2003 through an annual World Bank publication, Doing Business*, which proclaimed a wide range of labour regulations to be nothing more than a hindrance to investment. The IFIs used it to pressure dozens of developing countries to do away with workers' protection rules, contending that deregulation was necessary to stimulate employment growth, even though the Bank's own internal evaluators were unable to corroborate the claimed link between the* Doing Business *labour indicator and positive economic outcomes. Faced with mounting pressure from unions, the ILO and elected officials, the Bank finally instructed its staff in 2009 to stop using the indicator and removed it as a conditionality criterion, declaring that the global economic crisis justified adopting a different policy approach.*

❖❖❖

F

Sommaire

Dans les années 90, les mesures de privatisation et de dérégulation encouragées par les institutions financières internationales (IFI) dans le cadre du consensus de Washington ont été de plus en plus remises en cause et, en 2004, le président de la Banque mondiale a déclaré que le consensus était "mort". Pourtant, une nouvelle offensive en faveur d'une dérégulation tous azimuts, notamment dans le domaine de la protection des travailleurs, a été lancée en 2003 par le biais d'une publication annuelle de la Banque mondiale, Doing Business*, selon laquelle toute une série de réglementations du travail ne sont rien de plus que des entraves à l'investissement. Les IFI s'en sont servies pour faire pression sur des dizaines de pays en développement pour qu'ils démantèlent les dispositions de protection des travailleurs, soutenant que la dérégulation est nécessaire pour stimuler la croissance de l'emploi, bien que les*

1 This article was completed in April 2009.

* Director, ITUC/Global Unions – Washington Office

propres évaluateurs internes de la Banque mondiale aient été incapables de corroborer le prétendu lien entre l'indicateur Doing Business *relatif à l'embauche des travailleurs et la performance économique. Face à la pression croissante exercée par les syndicats, l'OIT et les représentants élus, la Banque mondiale a finalement demandé en 2009 à son personnel de ne plus utiliser l'indicateur et l'a retiré de la liste des critères de conditionnalité, déclarant que la crise économique mondiale imposait d'adopter une approche politique différente.*

❖❖❖

D

Zusammenfassung

Die Privatisierungs- und Deregulierungsstrategien, die von den internationalen Finanzinstituten (IFI) im Rahmen des Konsenses von Washington gefördert wurden, sind im Verlauf der 90er Jahre zu einem zunehmend kontroversen Thema geworden. 2004 erklärte der Präsident der Weltbank, der Konsens von Washington sei „gestorben". Dennoch wird seit 2003 in der jährlichen Publikation der Weltbank Doing Business *für eine allgemeine Deregulierung insbesondere im Bereich des Arbeitnehmerschutzes plädiert. In dieser Publikation wurde in Bezug auf zahlreiche Arbeitsvorschriften verkündet, sie seien nichts weiter als ein Hindernis für Investitionen. Dieses Argument wurde von den IFI benutzt, um Dutzenden von Entwicklungsländern die Abschaffung von Vorschriften zum Schutz der Arbeitnehmer abzupressen. Dabei beriefen sie sich auf die Behauptung, die Deregulierung sei notwendig, um das Beschäftigungswachstum zu stimulieren, obgleich es selbst den internen Evaluatoren der Weltbank nicht gelang, den angeblichen Zusammenhang zwischen dem Arbeitsindikator von* Doing Business *und positiven Wirtschaftsergebnissen zu bestätigen. Unter dem wachsenden Druck von Seiten der Gewerkschaften, der ILO und gewählter Gewerkschafts- und Regierungsvertreter wies die Bank im Jahr 2009 ihr Personal letztendlich an, diesen Indikator nicht mehr zu verwenden. Der Indikator wurde aus der Liste der Konditionalitätskriterien gestrichen mit dem Argument, die weltweite Wirtschaftskrise würde einen anderen politischen Ansatz rechtfertigen.*

❖❖❖

Keywords: labour market, international financial institutions, deregulation, trade unions, international labour standards, employment creation

Structural adjustment and the Washington Consensus

For nearly four decades after they were created, the International Monetary Fund (IMF) and the World Bank, known jointly as the Bretton Woods or international financial institutions (IFIs), were perceived by much of the international community as benign and useful institutions that could play important roles in protecting international financial stability and contributing to economic development. The IFIs were created at a 1944 conference by the victorious allied powers, who conceived of them as important components of the United Nations system, in which global financial stability and generalised prosperity were seen as crucial elements for avoiding the kinds of threats to world peace that developed in the 1930s.

The far more controversial actions by which the IFIs later became known only began around 1980, when both institutions started applying structural adjustment policies as conditions for their loans. In order to receive financial assistance from the IFIs, developing countries were required to undertake major structural reforms, such as reducing barriers to imported goods, services and investments; privatising state-owned enterprises and services; and generally reducing the role of government in the economy by dismantling regulations over economic activity, including labour regulations. The overall philosophy of structural adjustment was very much in harmony with the market fundamentalism championed by the conservative Thatcher and Reagan governments elected in 1979 and 1980 in Great Britain and the United States, two countries that had always played key roles in setting policy at the IFIs. In January 1981, during his first presidential inaugural address, Reagan famously summed up his approach to economic policy with the phrase: 'Government is not the solution to our problem; government is the problem'.

The IFIs worked throughout the 1980s and 1990s to tackle the 'government problem' in the belief that, even though structural adjustment might cause short-term hardship through job losses and decreased public expenditures, the majority of the country's inhabitants would eventually benefit from the inevitable results: reduced public indebtedness, increased economic growth and less poverty. The policy prescriptions became known as the 'Washington Consensus' after a 1989 article identified '10 policy instruments about whose proper deployment Washington can muster a reasonable degree of consensus' for attacking the debt crisis in Latin America (Williamson 1989).

Interestingly, the original 'Washington Consensus' article made no attempt to demonstrate the effectiveness of trade liberalisation, privatisation, low tax rates or deregulation of labour markets in reducing debt levels or creating stable growth, and even noted that the US government did not apply all of them consistently in its domestic economic policy. The only purpose was to codify 'the economic policies that Washington urges on the rest of the world', with 'Washington' referring to the US government and the IFIs (Williamson 1989). The term 'Washington Consensus' thus came to symbolise the belief system that characterised the IFIs' policies from the 1980s on.

Unfulfilled promises of the Washington Consensus

Because of their immediate social and economic costs, Washington Consensus policies quickly provoked considerable opposition. The controversy would no doubt have abated somewhat if the promised long-term benefits had materialised. By the late 1990s, the expected gains from several years of structural adjustment still proved to be illusive for most countries and this meant that the controversy kept growing. Overall, developing countries' levels of indebtedness increased during the 1980s and up to the mid-1990s, when the IFIs launched their first debt relief initiative (World Bank 2002: 198-199); economic growth rates were lower in all developing regions, except Asia, in the 1980s and 1990s than in the previous two decades (World Bank 2002: 194-195, 2003a: 280-281); inequality increased in most countries (World Bank 2005a: 63-64); and the number of people living in poverty (below the World Bank's threshold of US$2 per day) increased in all developing regions, again with the exception of East Asia (World Bank 2007a: 63).

The East Asian exception was an important one. Several countries, including what came to be known as newly industrialised or emerging economies such as China, Malaysia, South Korea, Taiwan and Thailand, maintained high growth rates over a long period and substantially reduced poverty by applying policies that were often the antithesis of the Washington Consensus. Former World Bank chief economist Joseph Stiglitz remarked in 2002: 'Trade was eventually liberalized, but only gradually. While the Washington Consensus policies emphasized rapid financial and capital market liberalization, the East Asian countries liberalized only gradually. While the Washington Consensus policies emphasized privatization, government at the national and local levels helped create efficient enterprises that played a key role in the success of several of the countries. Most broadly, while the Washington Consensus policies emphasized a minimalist role for government, in East Asia, governments helped shape and direct markets. [T]he World Bank and the IMF ... had resisted looking at the experiences of East Asia, which had *not* followed the Washington Consensus policies and had grown faster than any other region of the world' (Stiglitz 2002: 92, 221).

In the 2000s, economic growth finally did start accelerating in many non-Asian developing countries, and some analysts, including within the IFIs, attributed the higher growth to the belated impact of earlier structural adjustment policies. For example, the IMF's research department observed in 2008 that Sub-Saharan Africa (SSA) had experienced 'the best period of sustained economic growth since independence … The pace of activity [in most of] SSA has been supported by ... the payoff from improvements in macroeconomic stability, and the reforms undertaken in most countries' (IMF 2008a: 94-95).

Many other analysts did not share the view that stronger growth in regions such as SSA, where average annual GDP growth exceeded 5% from 2001 to 2008, was a delayed reaction to two decades of structural adjustment, and instead pointed to the commodity boom: 'Some commentators have gone so far as to herald the advent of the African

Cheetahs, following in the footsteps of the Asian Tigers ... It is starkly obvious that the high growth rates are driven by commodity exports ... The current global economic downturn is already having an impact on commodity prices' (Hailu 2008).

Ironically, one factor that may have contributed to higher growth in Africa in the 2000s resulted from IFI actions that were taken not as part of Washington Consensus policies, but rather as a response to their failure. After several years of campaigning, the international Jubilee campaign, supported by non-governmental organisations, churches and trade unions, convinced donor governments and the IFIs that Washington Consensus-type polices that purported to put countries on a debt- and poverty-reducing growth path would not by themselves achieve that end. In 1999, the IFIs adopted their first substantial programme to forgive the debts of highly indebted poor countries and promised to give priority to government programmes that explicitly targeted services to the poor, rather than expecting poverty to decrease as a by-product of supposed pro-growth policies. The debt relief initiatives, which were expanded to full IFI debt cancellation in 2005, eventually benefited 34 countries, 28 of them African.

However the IFIs' debt relief programmes contained the same type of structural adjustment conditionality that had already failed to resolve developing countries' indebtedness problems. Only a few years into the new millennium did the IFIs finally begin to concede that privatisation and liberalisation policies were not a guaranteed recipe for economic success. One of the most spectacular failures was Argentina, whose economy collapsed in 2001-2002 following a decade of implementing radical free-market policies supported by the IFIs. After the Argentine debacle, the World Bank once again began to emphasise the importance of financing public sector infrastructure investment. For its part, the IMF stopped pushing its member countries to do away with all forms of capital controls, recognising that they could play a beneficial role in reducing potentially destabilising movements of speculative capital.

In the field of labour standards, the IFIs had been reluctant to endorse the International Labour Organisation's (ILO) core labour standards (CLS), particularly freedom of association and collective bargaining rights for workers, because they could hinder the primacy of private property and the market. Starting in 2002, the World Bank dropped its objections and began expressing support for all of the CLS. In October 2004, the World Bank's president told an international trade union delegation, who complained about the persistence of market-fundamentalist polices at the Bank, that they had nothing to worry about because 'the Washington Consensus is dead' (World Bank 2004a: 5).

From 'Economic Freedom Index' to Doing Business

Despite the Bank president's assurances, a pushback was taking place within his own institution. Right-wing ideas were once again in ascendancy in Washington at the start of the new millennium after George W. Bush became US president in 2001. Conservative 'think tanks' such as the American Enterprise Institute and the Heritage Foundation were particularly influential among policy-makers. The latter had been publishing an 'Index of Economic Freedom' since 1994, which promoted the notion that only by reducing the role of government and eliminating taxes and regulations do economies become 'free' and prosperous. The 2003 edition of the Index gave its highest ratings to countries having no income tax; no minimum wage or where 'the minimum wage applies to a small portion of the work force and is therefore not relevant'; and where other labour regulations, such as hours of work or occupational safety rules, were similarly absent or irrelevant (O'Driscoll *et al.* 2003: 62). The Index did make an exception for regulations to enforce property rights and gave bad marks to 'governments that do not have strong property rights protection for items like intellectual property' (O'Driscoll *et al.* 2003: 66).

The Heritage Foundation's approach caught the attention of a group at the World Bank headed by Michael Klein, who left the chief economist's post at Royal Dutch Shell to become the Bank's vice-president for private sector development in 2000. Klein assembled an 'Investment Climate' group, who decided that the main obstacle to private investment was countries' regulatory 'burden' and set out to calculate 'ease of doing business' indicators that gave best marks to countries having the least regulations, with the aim of pressuring countries with higher levels of regulation to deregulate. Their intention was to publish a slightly more refined version of the Economic Freedom Index that would carry the multilateral veneer of the World Bank and be less suspect than the index produced by the Heritage Foundation, whose website proclaims that its mission is to 'promote conservative public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense' (Heritage Foundation 2009).

The first edition of *Doing Business (DB)*, published in October 2003, measured regulations in five areas, one of which was on 'Hiring and Firing Workers'. The other four themes were regulations for starting a business, contract enforcement, credit registration and bankruptcy. This article focuses exclusively on *DB's* treatment of the theme of labour. Countries that provided for a working week of any less than 66 hours, a weekly day of rest, a minimum wage exceeding 25% of average value added per worker, any recourse for appeal or severance pay in case of dismissal, or any limit on the use of term contracts, were considered to have excessive labour market rigidity. *DB* rated countries for difficulty of 'Hiring and Firing Workers' according to the degree to which labour regulations exceeded any of the minimal standards it considered acceptable and ranked countries accordingly.

The World Bank publicised and distributed *DB* so widely that it rapidly became the Bank's highest circulation publication. Later editions modified a few of the specific criteria. For example, the Bank changed the requirement that the legal working week must be at least 66 hours after it discovered that it violated ILO Convention 1, which in 1919 established the 48-hour maximum working week (but it waited until *DB 2007* to make the change). However, it left intact the fundamental methodology that gave highest ratings and best rankings to countries having the least labour regulations. Later editions of *DB* even expanded the scope of its promotion of the elimination of workers' protection legislation by introducing a 'Paying Taxes' indicator, which penalised countries for any type of mandatory employers' contributions to programmes such as old-age pensions or health care, including workplace accident insurance.[2]

Starting with the first edition, *Doing Business* claimed that it had developed quantitative indicators of business regulations that 'highlight specifically what needs to be changed when reforms are designed' (World Bank 2003b: ix-x). The chapter on 'Hiring and Firing Workers' introduced the *DB* labour indicators by stating, 'if regulation … is too rigid, it lowers labor force participation, increases unemployment, and forces workers into the informal economy' (World Bank 2003b: 29). Within weeks, World Bank country offices took these statements at face value and announced that countries which received lower *DB* labour indicator rankings than others in the region were harming their economies and should eliminate the regulations that were at fault for the bad ranking. As shown further below, it was subsequently used by the IFIs to pressure dozens of countries to undertake labour market deregulation. In fact, the assertion that the *DB* indicators were related to positive economic outcomes, such as economic growth or employment, was never substantiated. The report's authors and World Bank representatives repeatedly made claims of causality, for example between the *DB* indicators on labour market flexibility and employment creation, without any evidence.

DB's 'Hiring and Firing' indicator did have one intellectual underpinning of sorts: an academic article that tried to prove that Anglo-Saxon common law traditions – as applied in Great Britain, the US and former British colonies – were more business-friendly than civil law traditions (applied in continental Europe, Latin America, non-Anglophone Africa and much of East Asia), because whereas the former rely on markets and contracts, the latter rely on regulation (Botero *et al.* 2004). Any reference to economic outcomes was only secondary in the article, of which one of the co-authors headed the World Bank team that drafted *DB*. However, in its 2007 edition, *DB* incorrectly cited the article in support of the statement that 'the less flexible the regulations, the more businesses hire workers informally, pay them lower wages and avoid paying them health insurance and social benefits' (World Bank 2006a: 18). In reality, the Botero article tested for but did not find significant correlation between the employment laws index, on which the *DB* indicator is based, and

2 In 2007, the Heritage Foundation dropped its own labour law component and replaced it with the *DB* labour indicators as the new 'labor freedom factor' of its Index of Economic Freedom.

employment in the informal economy or wage levels (Botero *et al.* 2004: 45). It did not test for correlation with health care or other social benefits.[3]

Trade unions respond

The international labour movement quickly identified the potential for abuse that *DB* presented by defining all labour regulations as nothing but impediments to investment. The general secretary of the International Trade Union Confederation's (ITUC) predecessor organisation, the ICFTU[4], wrote to the president of the World Bank in October 2003, a few weeks after the launch of *DB*'s first edition, to warn that the publication promoted the elimination of labour regulations on questionable grounds without specifying that such deregulation 'can contribute to reducing the living standards of workers and act against poverty-reduction goals'. The Bank's president never replied to the letter and Bank vice-president Klein, who did reply, ignored the concerns.

The ICFTU and ITUC subsequently sent the Bank ten statements between 2004 and 2008, which called attention to the use of *DB* by the World Bank and IMF to deregulate labour markets in specific countries. The union bodies produced three detailed analyses of the *DB* labour indicators that underlined what they perceived to be serious methodological flaws, including arbitrary and unsubstantiated assumptions on which the indicators were based (ITUC 2007a). These analyses also provided information on 23 country cases where the IFIs pressured governments to dismantle labour market regulations on the basis of *DB* indicators and rankings.

Colombia was one of the first countries to follow *DB*'s labour policy advice by reducing the minimum wage and making it easier for employers to dismiss workers. When the 2005 edition of *DB* was launched, the Bank commended Colombia for being among 'the world's most successful investment climate reformers over the past year … [for] increasing the flexibility of labor laws' (World Bank 2004b). *DB* furthermore asserted that the reforms would produce 'the largest payoffs … in reducing unemployment' (World Bank 2004c: 30). However the Bank later admitted in a detailed study on Colombia's labour market that the reforms vaunted by *DB* had a negligible impact on employment: 'the impact of the reform may have been positive. However making this link is not an easy task' (World Bank 2005b: 33). Perhaps not surprisingly, the Bank failed to mention that Colombia was, and remained for several years, the world champion for attacks against

3 *DB*'s condemnation of civil law traditions as being detrimental to business and investment provoked vigorous objections from juridical experts in France and other countries using civil law codes. An association of civil law jurists in Paris compiled several critiques and published them in two volumes which delve into the legal systems approach of *DB* rather than focusing on the labour market deregulation aspect as does this article (see Association Henri Capitant des amis de la culture juridique française 2006).

4 In November 2006, the International Confederation of Free Trade Unions (ICFTU) merged into the newly unified International Trade Union Confederation (ITUC).

trade unionists, including 1184 murdered between 1994 and 2007 according to the ITUC's *Annual Survey of Violation of Trade Union Rights*.

The World Bank's sister institution, the IMF, also used the *DB* labour market indicators to encourage countries to reduce workers' protection, often in similarly problematic circumstances. For example, in 2007 the Fund advised the government of Jordan to engage in 'increasing labor market flexibility by … easing hiring and firing legislation' (IMF 2007a: 17); not long after, reports were documenting widespread abuse of workers in the country's export processing zones. The IMF's insistence that Jordan should make it easier for companies to dismiss employees increased the possibility of maltreatment of workers at the same time that the ILO was working with the government to end the abuse. The IMF obliged the government of Kyrgyzstan to undertake a Fund-approved labour law reform based on the *DB* indicators, through a 'structural benchmark' loan condition (IMF 2007b: 29-30), shortly after Kyrgyz trade unions had convinced the national parliament to withdraw draft legislation that would have restricted labour rights. Citing Niger's 'relatively high' (i.e. poor) *Doing Business* ranking for 'Employing Workers', the IMF included a loan condition in 2008 requiring that Niger 'implement an action plan, with World Bank assistance, to reduce the cost of business … [by] increasing labor market flexibility' (IMF 2008b: 32).

The World Bank also used the *DB* labour indicators to set conditions for some specific loans. Burkina Faso, for example, was required to use the Bank's 2007 Poverty Reduction Support Credit to 'improve [the] business environment' and *DB*'s rigidity of employment index was to serve as a 'monitoring indicator' to determine whether the objective had been achieved (World Bank 2007b: 4). The Bank furthermore incorporated the *DB* labour indicators as criteria for overall access to the institution's concessionary loans and grants through a mechanism called the Country Policy and Institutional Assessment (CPIA), in which the *DB* labour market regulation indicators serve as a 'guidepost' (World Bank 2007c: 31). Countries whose 'rigid' labour regulations resulted in bad *DB* ratings received lower CPIA scores and reduced allocation of concessionary resources from the Bank's IDA (World Bank 2008c). In 2006, the Bank decided to incorporate the *DB* indicators into its general labour markets strategy called 'MILES: A Multi-Sector Approach to Foster Job Creation, Poverty Reduction and Growth'.

Use of *Doing Business* to block tripartite reforms

Unions are not *per se* opposed to reform of labour laws. In several developing countries national trade unions participated in reform processes, often assisted by the ILO, where they supported replacing certain employment protection rules with improved social safety nets. However, the IFIs actually contributed to delays in reform processes in some countries by using *DB* to advocate that labour regulations could be removed without cost to anyone and to oppose social protection schemes such as pensions or unemployment benefits that entail employer contributions.

Some editions of *DB* argued that improved social protection could be a substitute for rigid employment protection rules: 'In middle-income countries reformers might introduce unemployment insurance in place of rigid dismissal rules. This shifts the focus of regulation from protecting jobs to protecting workers …' (World Bank 2006a: 21). However *DB*, by way of the 'Paying Taxes' indicator, actually gave lower ratings to countries that adopted programmes such as unemployment insurance, old-age pensions, health coverage or maternity leave if they were financed through 'social security contributions and other labor taxes paid by the employer' (World Bank 2006a: 71). Consequently, World Bank officials in some developing countries used *DB* to push for labour market deregulation without improvements to social safety nets, often provoking strong resistance.

In Nepal, for example, trade unions agreed with employers and the government in early 2005 to begin a labour law reform process, supported by the ILO, to loosen job termination rules but concomitantly introduce basic social security measures, improve occupational safety standards and ratify the CLS conventions. The reform process was abruptly suspended in February 2005 when the Nepalese king seized absolute power and suspended trade union rights. The World Bank, invoking Nepal's low rank on the *DB* labour indicator scale in comparison to some other Asian countries, then pressured the king to decree labour market deregulation unilaterally without the other components previously agreed. The Bank's country director warned that the king's 'ability to access budget support from the World Bank' depended on a deregulation decree, according to a letter dated January 2006 the director sent to the ILO. The king did as the Bank urged and proclaimed a labour law ordinance in March 2006, but in April was obliged to relinquish power by pro-democracy forces of which the unions were an important part. The new government withdrew the labour ordinance two weeks later (Kyloh 2008: 85-95).[5]

Nepal's tripartite reform process got back on track later that year and in October 2007 there was agreement on the way forward, involving establishment of some basic social protection programmes, ILO ratifications and a new labour law. The World Bank almost succeeded in derailing the process a second time when, in November 2007, a Bank vice-president told Nepalese media that there would be no additional assistance for Nepal unless it met the condition of deregulating 'rigid labour laws' (Kathmandu Post 2007). Nepalese unions quickly obtained a meeting with the prime minister, who assured them that the government would refuse a new World Bank loan if it included the labour market deregulation condition. Ultimately, the Bank's promotion of uncompensated labour market deregulation based on the *DB* indicators did little more than help delay by three years a reform process that all Nepalese social partners agreed with.

5 In May 2008 a constituent assembly voted almost unanimously to depose the king and established the Republic of Nepal.

Problematic methodology and lack of empirical evidence

The basic methodology of *DB*'s 'Employing Workers' and 'Paying Taxes' indicators, which gave top rankings to countries with the lowest levels of mandated workers' and social protection, assumed that such protection entails costs but absolutely no benefit. The inevitable result was that countries with bad records in protecting workers' rights were frequently presented as model countries. Top-ranking *DB* countries for 'Employing Workers' have included Belarus and Georgia in the former Soviet Union, Afghanistan and several small non-ILO-member countries in Asia-Pacific, Saudi Arabia in the Middle East, and Haiti in Latin America-Caribbean. Few of the regional 'top performers' for their lack of labour laws were noted for high levels of employment or overall economic prosperity (oil-rich Saudi Arabia being an exception) in spite of *DB*'s claim that low levels of workers' protection foster economic growth. On the other hand, *DB* granted some of its worst 'Employing Workers' scores to countries that achieved high or stable economic and employment growth and successfully reduced poverty, such as Brazil and Peru in Latin America, South Korea and Taiwan in Asia, and Estonia and Slovenia in eastern Europe.

In vilifying 'excessive' labour market regulations in countries that received low ratings on the *DB* scale, the World Bank's highest circulation publication sometimes undercut the institution's avowed objective of reducing poverty, which the Bank declared to be its 'overarching goal'. For example, one of the reasons for Brazil's poor 'Employing Workers' score was that the minimum wage exceeded the threshold *DB* deemed acceptable (25% of average value added per worker). *DB* consequently supported a reduction of the country's minimum wage. Yet the Bank's 2008 Country Partnership Strategy for Brazil highlighted 'increases in the minimum wage' as among the main factors contributing to a significant decline in poverty and to the fact that Brazil's income inequality, which was among the highest in the world, 'is finally eroding' (World Bank 2008a: Annex 88).

In contrast, the Bank's Country Assistance Strategy for Belarus commended the fact that, in 'the 2008 *Doing Business* Report … Belarus ranks quite well regarding … employing workers' (World Bank 2008b: 9). The ILO had condemned the country's curtailing of workers' rights as a violation of the CLS, leading to the European Union withdrawing trade preferences for Belarus under the EU's Generalised System of Preferences. It is likely that *DB*'s endorsement of unacceptable labour practices harmed more than it helped enterprises in Belarus since it resulted in reduced access for their exports to the world's largest market, but this consideration apparently did not occur to the Bank.

In the case of one top *DB* performer, the Republic of Georgia, the Bank awarded the government its 2007 'Reformers' Club' prize because 'reforms … have catapulted Georgia from a ranking of 112 to 37th place in the World Bank Group's 2007 global rankings on the regulatory ease of doing business' (IFC/World Bank 2007). The change was most dramatic in the area of labour policy, for which Georgia's ranking jumped from 79th place in 2006, where it was on a par with Sweden, to sixth place in 2007, between non-ILO-member countries Maldives and Palau. Georgia's leap up the *DB* ladder was due to the fact that it abolished most of its labour regulations in July 2006. Among other features, the new law allowed employers to dismiss workers without reason, to establish unilaterally several conditions previously subject to collective bargaining and to consider illegal all strikes lasting more than 90 days. In addition, unions could be prohibited if they were deemed to engage in 'stirring up social conflicts' (ITUC 2007b: 313). The ILO's committee of experts on the application of conventions found that several aspects of Georgia's new labour law did not conform to some CLS conventions (ILO 2008a, 2008b), but the 2008 edition of *DB* lauded the labour law reform, saying that Georgia was among the countries where 'workers … have the best protection' (World Bank 2007d: 19).

As mentioned above, the Bank appeared to have no qualms about asserting relations between labour market deregulation and employment growth regardless of whether it had any evidence. Sometimes it took liberties with the facts when no supporting data were available. In the case of Georgia, a World Bank communiqué in 2006 quoted a 'co-founder of the *Doing Business* project' as claiming that 'unemployment fell by 2%' as a result of the 'streamlined labor regulations' that had been introduced that year as well as other reforms (World Bank 2006b). Data published by the IMF showed that Georgia's unemployment rate actually increased from 2004 to 2005 and again in 2006 (IMF 2007c: 15).

ILO critiques of Doing Business

In written critiques, the ITUC and ILO underlined the lack of empirical evidence to support the alleged link of causality between the *DB* labour indicators and economic outcomes such as investment or employment. One reason for the lack of explanatory power could be methodological flaws in the construction of the indicators. A paper by ILO researchers Berg and Cazes pointed out major problems presented by the aggregation and weighting system and the coding method used by *DB*, for which the World Bank never provided justification and which appeared to be largely arbitrary (Berg and Cazes 2007).

In addition to problems with the particular indicator they designed, *DB* and the World Bank were erroneous in assuming a robust causal link between labour regulations and employment levels. Economic literature provides no basis for such an unqualified assumption. The ILO's Berg and Cazes observed: 'The *Doing Business* report champions the belief that by deregulating the labour market, businesses will prosper and informality will be reduced. But the empirical debate on the economic benefits of labour market deregulation is far from being settled' (Berg and Cazes 2007: 8). The ILO further observed that *DB* repeatedly contradicted the findings of the key reference on which the methodology of the indicator is based, the Botero *et al.* article (ILO 2007: 9), concerning the relation between the labour indicator and economic outcomes. It may be noted that *DB* did this in spite of the fact that one of the co-authors of that article was, until 2008, the director of the team that prepared *DB*.

After completing several studies on the link between labour market regulations and employment growth, the Organisation for Economic Cooperation and Development (OECD) concluded that 'successful performers' in terms of employment growth included both countries with light employment protection legislation (EPL) and low welfare benefits, and others with more restrictive EPL, generous welfare benefits and coordinated collective bargaining. Whereas the former group of countries, applying the model favoured by *DB*, was characterised by 'relatively wide income disparities', the latter 'have achieved high employment and low income disparity' (OECD 2006: 19).

In a 2007 review of the sources referenced in various editions of *DB* to justify the asserted relation between its labour regulations indicator and employment levels, the ITUC concluded that the evidence 'ranges from inexistent to anecdotal and from highly selective to erroneous' (ITUC 2007a: 8). The ITUC pointed out that *DB* appeared to ignore important research that contradicted the claimed causal link and selectively quoted only those studies, many of them from unverifiable World Bank sources, which supported its pro-deregulation stance.

The practice continued up to the most recent editions of *DB*. For example, *Doing Business 2009* cited a 'forthcoming' study on Brazil which 'finds that enforcement of rigid labor regulations limits firm size and reduces employment' (World Bank 2008d: 19). It failed to mention another study presented at a World Bank conference which found that Brazil's minimum wage, considered by *DB* to be excessive and partly responsible for the country's low rating, 'strongly compresses the wage distribution ... but does not affect employment' and that consequently 'the minimum wage could be an effective policy tool in the fight against poverty and inequality' in Brazil (Lemos 2006: 20, 22).

Ideological bias consistent with Bank orthodoxy

The manner in which the World Bank authorised *DB* to make unsubstantiated claims of causality about its labour indicator and used it to pressure countries to dismantle workers' protection regulations stood in stark contrast with the attitude it took to the ILO's core labour standards. In 1999, the Bank informed an international trade union delegation that it could not support all of the CLS for the following reason: 'The Bank has taken an unambiguous position on three core labor standards (child labor, forced labor, and discrimination) that have been shown to consistently accord with economic development. The evidence on the freedom of association and collective bargaining standard seems less conclusive and the Bank is currently undertaking analysis work in this area' (World Bank 1999).

It took four more years, until 2003, before the Bank announced that it had done enough research to convince itself that the CLS were compatible with economic development and that it could endorse them (World Bank 2003c). The contrast with the Bank's unquestioning embrace of *DB* showed a remarkable double standard and may be a telling comment on its lack of intellectual rigour when unproved assertions were in harmony with received wisdom at the institution. As was the case with the Washington Consensus in 1989, *DB* seemed to conform to the IFIs' basic belief system that regulations on labour or anything else except those protecting property rights were a bad thing. Evidently, no justification was deemed necessary as long as *DB*'s ideological bias was in accordance with George W. Bush-era orthodoxy at the World Bank.

The Bank only began to respond to oft-repeated trade union and ILO criticisms of *DB*'s labour market deregulation approach years after they began. In the 2008 edition of *DB*, the Bank suddenly declared that 'improvements were made to align the *Doing Business* methodology with ILO conventions. It is now possible for an economy to receive the highest score on the ease of employing workers – indicating the most flexible labor regulations – and comply with all 187 ILO conventions' (World Bank 2007d: 68). The 2009 edition proclaimed: 'An economy can have the most flexible labor regulations as measured by *Doing Business* while ratifying and complying with all conventions directly relevant to the factors measured by *Doing Business* and with the ILO core labor standards' (World Bank 2008d: 19).

The ILO itself vigorously disputed the Bank's claim that the *DB* labour indicators complied with ILO conventions. The director of the ILO's employment sector replied: 'In the view of the ILO, the statement that the [*DB*] indicator is consistent with all 188 ILO labour standards is nonsense, misleading and wrong … In addition, from the top ten countries in the EWI ['Employing Workers' indicator] ranking, 7 have ratified none of the ILO conventions relevant to the subjects covered by the index, and among the top 20, ten of them have ratified none' (Salazar 2008: 5).

Some governments, frequently at the urging of trade unions, also began to express strong misgivings about the World Bank's promotion of labour market deregulation through *DB*. Germany's minister for cooperation and development, for example, raised her objections to *DB* with the Bank's president starting in 2006. In 2007, the financial services committee of the Democratic Party-controlled US House of Representatives held a day of hearings on *DB*'s labour indicators to which both critics and supporters were invited to testify and followed this up in June 2008 by including a proviso in a bill for World Bank funding that the Bank should 'Cease any use of the Employing Workers Indicator for the purpose of ranking or scoring country performance in the annual

Doing Business Report of the World Bank until a set of indicators can be devised that fairly represent the value of internationally recognized workers' rights, including core labor standards …' (House of Representatives 2008: 7).

Internal evaluation corroborates external critics

Almost five years after the publication of the first edition of *DB*, the World Bank's Independent Evaluation Group (IEG) published an assessment of *DB* which corroborated many complaints that trade unions had been making since 2003. The IEG, which reports directly to the Bank's board of directors rather than management, criticised the report's inherent bias because it 'measures costs but not benefits of regulation or other dimensions of labor market flexibility'. It noted that 'no significant association emerged between … [the *DB* indicator on] employing workers and employment' and blamed *DB* for making 'overstated claims of the indicators' explanatory power' (IEG 2008: 32, 6 and xvi).

Even before the IEG report was issued, the IMF invited the ITUC to discussions about the Fund's use of the *DB* labour indicators. IMF officials later informed the ITUC that Fund management had issued an internal memorandum about methodological problems with the indicator and instructed staff to refrain from using it. Starting in 2009, several IMF Article IV policy reports included references to the *DB* indicators but omitted the labour indicator (for example, see IMF 2009a: 16, 2009b: 19, 2009c: 22).

It could hardly have escaped IMF officials' notice that *DB*'s one-sided deregulatory approach on labour matters was being discredited at the same time that the US financial sector was collapsing because of lack of adequate regulation. The IMF was blamed by the developing-country group at the Fund for failing to predict the financial collapse and for not paying sufficient attention to the regulatory deficiencies in the US that led to the so-called subprime crisis. In April 2009 the IMF confirmed that the global world economy was in severe recession and predicted that the financial meltdown would entail US$4.1trn of financial losses, two-third of them in US-originated assets (IMF 2009d).

The political philosophy that 'government is the problem, not the solution' seemed to have finally run its course in the United States after the Republican Party was soundly defeated in November 2008 elections, but it appeared to take longer for the World Bank to get the message. In January 2009, an international trade union delegation meeting with Bank officials once again insisted that '*Doing Business* should get out of the business of labour standards', especially given that the labour indicator had been discredited by the Bank's own internal evaluators (ITUC 2009a). Bank president Robert Zoellick, a former Bush administration official who had been nominated to his post one and a half years earlier by the US president, said that the Bank might agree to a few minor adjustments to the labour indicator but otherwise defended the publication and its use in formulating World Bank policy advice to developing countries.

In early 2009, the World Bank began to acknowledge the negative impact of some of its free-market excesses, for example by releasing a report which showed that the privatised pensions which it had convinced several developing countries to adopt in replacement of fully public pensions had been devastated by the global financial collapse (World Bank 2008e). A few weeks after the January 2009 trade union meeting with Zoellick, Bank officials initiated discussions with the ITUC and other critics of *DB* during which they stated that the Bank was prepared to suspend use of the labour indicator and to develop an alternative labour market policy on which it would consult the ILO, unions and others. The critics in turn requested that the Bank make a public statement to this effect, something that it eventually agreed to do, but not before Bank vice-president Michael Klein, the patron of *DB*, had announced his resignation.

In April 2009, Bank management disclosed that it had sent a memo advising staff that, in light of the global economic crisis and its impact on workers and vulnerable parts of society, it would take the following actions: 'Removing the Employing Workers Indicator (EWI) as a guidepost in the Country Policy and Institutional Assessments (CPIA). A guidance note will be issued clarifying that the EWI does not represent World Bank policy and should not be used as a basis for policy advice or in any country program documents that outline or evaluate the development strategy or assistance program for a recipient country. The note will emphasize the importance of regulatory approaches that facilitate the creation of more formal sector jobs with adequate safeguards for employees' rights and that guard against the shifting of risk from firms to workers and low-income families' (World Bank 2009).

The Bank also announced that it intended to develop a new 'worker protection indicator' in consultation with the ILO, trade unions and employers and that it was prepared to re-examine *DB*'s 'Paying Taxes' indicator. The changes would be completed for incorporation into the 2011 edition of *DB*, to be published in the latter part of 2010. The ITUC welcomed the fact that 'an important development institution like the World Bank is turning the page on a one-sided deregulatory view on labour issues and proposing to adopt a more balanced approach where adequate regulation, improved social protection and respect for workers' rights will be given a higher profile'. It offered Bank its full cooperation 'in developing an alternative approach that promotes the creation of decent work' (ITUC 2009b).

Conclusion

The Washington Consensus credo that developing countries should eliminate or reduce workers' protection regulations in order to improve their economic performance proved to be a particularly resilient one, which the IFIs promoted long after the World Bank's president declared the consensus to be dead. The Bank claimed that its highest-circulation publication, *Doing Business*, had established a precise indicator which would produce beneficial results, such as increased employment, if used to weaken or eliminate labour regulations. The World Bank continued to promote labour market deregulation on the basis of the report even after its own internal evaluators found no evidence of any such relation between the *DB* labour indicators and employment.

Like the Washington Consensus, *Doing Business* was conceived and used as the expression of an ideological precept dating from the 1980s that 'government is the problem, not the solution'. Labour market regulations established by government were in that category. This article attempts to demonstrate that empirical evidence in support of the report's labour market flexibility indicator was deemed by the World Bank to be of secondary concern at best, and even unnecessary or inconvenient. This was confirmed by *DB*'s repeated failure to mention the lack of empirical evidence or the fact that its basic hypothesis was subject to considerable academic debate. Likewise, the Bank made no attempt to correct the report's erroneous citations that outside organisations brought to its attention, nor to respond to the use of *DB* by IFI staff to promote labour market deregulation measures in questionable circumstances.

This article suggests that the lack of empirical evidence in support of the *DB* labour indicator was deemed acceptable by the IFIs as long as the deregulatory message was in harmony with George W. Bush-era economic orthodoxy at the institutions, and stands in contrast to the much more rigorous examination to which the ILO's core labour standards were subjected before the World Bank accepted to endorse them. A combination of pressure from the trade union movement, the ILO and various elected officials all added to the decision of the IFIs finally to stop using the indicator in 2009. The deep global recession of 2009, resulting from a financial collapse that most analysts attribute to a lack of adequate government regulation, probably also added to the decision of the Bank to begin reining in the simplistic and ultimately harmful deregulatory message of its highest-circulation publication. It remains to be seen whether the Bank follows through by supporting an approach to development that is empirically based and places value on goals such as employment creation and workers' rights, rather than one that gives primacy to the unrestricted rights of business-owners above and sometimes to the detriment of all other concerns.

References

Arruñada, B. (2007) 'Pitfalls to avoid when measuring institutions: Is Doing Business damaging business?', mimeo, Pompeu Fabra University.

Association Henri Capitant des amis de la culture juridique française (2006) *Les droits de la tradition civiliste en question : À propos des rapports Doing Business de la Banque mondiale*, Paris: Société de législation comparée.

Berg, J. and S. Cazes (2007) *The Doing Business Indicators: Measurement issues and political implications*, Geneva: ILO.

Berg, J. and S. Cazes (2008) 'Policymaking Gone Awry: The Labor Market Regulations of the Doing Business Indicators', *Comparative Labor Law and Policy Journal*, 29 (4), 349-381.

Botero, J., S. Djankov, R. La Porta, F. Lopez-de-Silanes and A. Shleifer (2004) 'The Regulation of Labor', *Quarterly Journal of Economics*, 119 (4), 1339-1382. http://www.doingbusiness.org/documents/labor_June04.pdf [Accessed 09.4.2009]

Hailu, D. (2008) *Are the Cheetahs Tracking the Tigers?: Probing High Growth Rates in Africa*, Brasilia: International Poverty Centre-UNDP.

Heritage Foundation (2009) 'Our Mission'. http://www.heritage.org/about/ [Accessed 23.3.2009]

House of Representatives (2008) Amendment in the Nature of a Substitute to H.R. 6306, Washington: US House of Representatives Washington.

Høyland, B., K. Moene and F. Willumsen (2008) *Be careful when Doing Business*, Report commissioned by Norwegian Ministry of Foreign Affairs.

IFC/World Bank (2007) 'World Bank and USAID Honor Reformers of Business Environment: Zurab Nogaideli, Prime Minister of Georgia, Recognized as Top Reformer of the Year', Press Release, 13 April 2007, Washington: IFC/World Bank.

Independent Evaluation Group (IEG) (2008) *Doing Business: An Independent Evaluation*, Washington: World Bank.

International Labour Organisation (ILO) (2007) *World Bank Doing Business report: The employing workers indicator*, Geneva: ILO.

International Labour Organisation (2008a) CEACR: Individual Observation concerning Minimum Age Convention, 1973 (No 138) Georgia (ratification: 1996), Geneva: ILO.

International Labour Organisation (2008b) CEACR: Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No 111) Georgia (ratification: 1993), Geneva: ILO.

International Monetary Fund (IMF) (2007a) *Jordan: Article IV Consultation Staff Report*, Washington: IMF.

International Monetary Fund (2007b) *Kyrgyz Republic: Article IV Consultation Staff Report*, Washington: IMF.

International Monetary Fund (2007c) *Georgia: Sixth Review under the Three-Year Arrangement under the Poverty Reduction and Growth Facility*, Washington: IMF.

International Monetary Fund (2008a) *World Economic Outlook*, April 2008, Washington: IMF.

International Monetary Fund (2008b) *Niger: Sixth Review under the Three-Year Arrangement under the Poverty Reduction and Growth Facility*, Washington: IMF.

International Monetary Fund (2009a) *Sierra Leone: 2008 Article IV Consultation, Third Review … Staff Report*, Washington: IMF.

International Monetary Fund (2009b) *Union of Comoros: Article IV Consultation and Request … Staff Report*, Washington: IMF.

International Monetary Fund (2009c) *Niger: Article IV Consultation and First Review … Staff Report*, Washington: IMF.

International Monetary Fund (2009d) *Global Financial Stability Report*, IMF.

International Trade Union Confederation (ITUC) (2007a) 'The IFIs' Use of *Doing Business* to Eliminate Workers' Protection: Analysis of *Doing Business 2008* and new country evidence'.
http://www.ituc-csi.org/IMG/pdf/doing_business.pdf [Accessed 09.4.2009]

International Trade Union Confederation (2007b) 2007 *Annual Survey of Violation of Trade Union Rights*, Brussels: ITUC.

International Trade Union Confederation (2008) *2008 Annual Survey of Violation of Trade Union Rights*, Brussels: ITUC.

International Trade Union Confederation (2009a) 'Zoellick and Strauss-Kahn React to Unions' Demands on Growing Global Employment Crisis', ITUC Onlines, 18 January 2009.
http://www.ituc-csi.org/spip.php?article2713 [Accessed 09.4.2009]

International Trade Union Confederation (2009b) 'ITUC welcomes World Bank's suspension of "Doing Business" labour indicator'
http://www.ituc-csi.org/spip.php?article3505 [accessed 28.4.2009]

Kathmandu Post (2007) 'WB to pledge Rs 16b in grant', *Kathmandu Post*, 13 November 2007.

Kyloh, R. (2008) *From Conflict to Cooperation: Labour Market Reforms that Can Work in Nepal*, Geneva: ILO.

Lee, S., D. McCann and N. Torm (2008) 'The World Bank's "Employing Workers" Index: Findings and Critiques – A Review of Recent Literature', *International Labour Review*, 147 (4), 416-432.

Lemos, S. (2006) 'Minimum Wage Effects in a Developing Country', mimeo, University of Leicester, Paper presented at World Bank/IZA conference, May 2006, Berlin.

O'Driscoll, G., E. Feulner and M. O'Grady (2003) *2003 Index of Economic Freedom*, Washington: Heritage Foundation and Wall Street Journal.

Organisation for Economic Cooperation and Development (OECD) (2006) *Boosting Jobs and Income – Policy Lessons from Reassessing the OECD Jobs Strategy*, Paris: OECD.

Salazar, J.M. (2008) 'Comments by José Manuel Salazar, Executive Director, Employment Sector, ILO at the launch of the 2009 Doing Business Report in Geneva, Monday 22 September 2008', mimeo.

Stiglitz, J. (2002) *Globalization and its Discontents*, New York: Norton.

Williamson, J. (1989) 'What Washington Means by Policy Reform', in J. Williamson (ed.) *Latin American Readjustment: How Much has Happened*, Washington: Institute for International Economics.

World Bank (1999) 'Core Labor Standards and World Bank: Background Document', mimeo.

World Bank (2002) *World Development Indicators 2002*, Washington: World Bank.

World Bank (2003a) *Global Economic Prospects 2004*, Washington: World Bank.

World Bank (2003b) *Doing Business in 2004*, Washington: World Bank.

World Bank (2003c) 'Economies Perform Better in Coordinated Labor Markets', World Bank press release, 12 February 2003.

World Bank (2004a) 'Joint Report on Meetings between the International Trade Union Movement (Global Unions and WCL) and the IMF and World Bank'. http://siteresources.worldbank.org/INTLM/Resources/TUMeetingOct7.pdf [Accessed 09.4.2009]

World Bank (2004b) 'Doing Business 2005: Poor Nations Struggle to Reduce Red Tape for Business, Miss Large Growth Opportunities', World Bank News Release No 2005/69/S, 8 September 2004, Washington: World Bank.

World Bank (2004c) *Doing Business in 2005*, Washington: World Bank.

World Bank (2005a) *World Development Report 2006: Equity and Development*, Washington: World Bank.

World Bank (2005b) *Colombia: Labor Market Adjustment, Reform and Productivity*, Washington: World Bank.

World Bank (2006a) *Doing Business 2007*, Washington: World Bank.

World Bank (2006b) 'Doing Business: Georgia is This Year's Top Performer', Communiqué, 6 September 2006, Washington: World Bank.

World Bank (2007a) *World Development Indicators 2007*, Washington: World Bank.

World Bank (2007b) *Program Information Document: Concept Stage, Report No. AB2797*, Washington: World Bank.

World Bank (2007c) *Country Policy and Institutional Assessment: 2007 Assessment Questionnaire*, Washington: World Bank.

World Bank (2007d) *Doing Business 2008*, Washington: World Bank.

World Bank (2008a) *Country Partnership Strategy for the Federative Republic of Brazil*, Washington: World Bank.

World Bank (2008b) *Country Assistance Strategy for the Republic of Belarus for the Period FY08-FY11*, Washington: World Bank.

World Bank (2008c) 'International Development Association: How IDA Resources are Allocated'. http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/IDA/0,,contentMDK:20052347~menuPK:2648555~pagePK:51236175~piPK:437394~theSitePK:73154,00.html [Accessed 09.4.2009]

World Bank (2008d) *Doing Business 2009*, Washington: World Bank.

World Bank (2008e) 'The Financial Crisis and Mandatory Pension Systems in Developing Countries', Washington: World Bank.

World Bank (2009) 'Revisions to the EWI Indicator'. http://www.doingbusiness.org/documents/EWI_revisions.pdf [Accessed 28.4.2009]