Orthodoxy, evidence and action: Labour rights at the World Bank

Created in 1944 jointly with the IMF as one of the Bretton Woods twins, the World Bank shifted its focus to financing projects in developing countries in the 1950s. In the 1980s it became a strong proponent of structural adjustment policies that had major consequences for employment and working conditions. It only belatedly acknowledged its impact on labour and formulated policies on these issues in recent years. With the growth of other sources of finance the Bank's pre-eminent role has lessened, but it remains the world's largest and most influential development finance institution

On the level of its official discourse and policy stances on employment and workers' rights, the Bank has come a long way over the past fifteen years. In 2003, it launched a 'flagship report' which, at the height of murderous attacks against organised labour in Colombia, lauded the country for having embraced the 'deregulation experience' by dismantling protections for workers[1]. In 2018, if all goes according to announced plans, the Bank will make it obligatory for its projects to comply with a nine-page labour standard that, among other provisions, requires that borrowers 'will not discriminate or retaliate against project workers who participate or seek to participate in … workers' organisations … or alternative mechanisms'[2].

The World Bank has by no means made a complete about-face on policies for decent work, workers' rights and its own responsibility to ensure they are respected. However, there has been a gradual shift within the Bank away from the approach, still dominant until the 2008-2009 global economic crisis, that job creation is an automatic by-product of economic growth as long as governments do not interfere unduly in the free market. Additionally and importantly, the Bank has reversed its earlier stance that as an 'economic' institution, it has no reason or mandate to pay attention to the treatment of workers in the activities it finances.

The belief that unregulated labour markets are a necessary ingredient for achieving high rates of investment and growth was given a distinctly enhanced status within the Bank when, in October 2003, it launched the first edition of *Doing Business*. Labour was one of five policy areas singled out in the report as priorities for deregulatory action to make countries more investment friendly. *Doing Business* published a 'Hiring and Firing Workers' indicator (the name was later changed to 'Employing Workers Indicator': EWI), which gave best scores to countries having the lowest minimum wages, longest working hours and least protections against dismissal.

Within weeks of the launch of *Doing Business*, the Bank's country offices began actively encouraging governments in developing and transition countries to emulate low-regulation model countries in the region, or in other regions, by slashing workers' protections. In some cases, improving the EWI was made a 'benchmark' for measuring progress in meeting loan conditions.

In 2007, the World Bank awarded its 'Reformers Club' prize to the Republic of Georgia 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'[3]. The most substantial 'progress' was in labour reforms, thanks to action Georgia had taken in 2006 to abolish most labour regulations, including all protections against dismissal.

IMF staff followed their Bank colleagues by incorporating EWI assessments and comparisons as well as recommendations for weakening labour protections in numerous Article IV Consultation reports. The fact that economic studies attempting to make the link between weak labour regulations and high GDP or employment growth gave highly inconsistent results, such that the link was essentially unproven, seems not to have disturbed the IFIs at this point.

Resistance to the *Doing Business* approach

Pressure for the IFIs to halt their policy of espousing extensive labour market deregulation began in the trade union movement shortly after the launch of *Doing Business*, spread to the ILO and then to several governments. In October 2007, the US House of Representatives' Committee on Financial Services, chaired by Congressman Barney Frank, held a hearing on the EWI and its uses. Frank roundly condemned the Bank for its promotion of weakened protections for working people.

The Bank finally paid heed to the pressure in 2009, the year of the 'Great Recession'. It suspended the EWI and justified the move as follows: 'In the current global economic crisis, the WBG is looking at the advice, policy instruments, strategies and other tools at our disposal to ensure that it helps

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governments … It is important that government actions focus on the needs of the labour force and lower income households, as well as those designed to help businesses …'[4].

The Bank also decided, in the context of the rapid deterioration of workers' conditions during the crisis, to devote an upcoming edition of its annual *World Development Report* to the theme of employment. Work on the *WDR 2013: Jobs* began in 2011 and involved consultations with academics and organisations such as trade unions who felt that a fundamental shift in the Bank's attitude to labour was required.

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When the *WDR 2013: Jobs* came out in October 2012[5], unions took exception to the report's ambiguous stance regarding informal economy work, but were positive about most of the other analyses and recommendations. The WDR makes clear that prioritising GDP growth is not synonymous with creating quality jobs and provides examples of Bank-supported projects, in certain extractive industries for example, that turned out to be net destroyers of jobs. To avoid these outcomes, the report recommends that all Bank-sponsored development initiatives should be assessed using a 'jobs lens'.

The WDR 2013 also contains strong affirmations about the importance of respecting workers' rights: it underlines the 'special status' of the ILO's core labour standards (CLS) conventions and states that work activities that do not comply with them 'should not be treated as jobs'[6]. Previous Bank reports on CLS had hedged their support, endorsing them as long as they were consistent with the Bank's 'development mission', i.e. do not harm growth.

Perhaps the most important contribution of the WDR 2013 was an analytical chapter, 'Labour policies revisited', that includes an extensive review of economic literature on links between labour market regulations – notably employment protection rules and minimum wages – and employment levels. The WDR examined abundant new research on the topic and concludes that most estimates of the impacts of labour regulations on employment levels 'tend to be insignificant or modest'.

While stating that there could be cases of labour markets that are either under-regulated (leading to harmful distributional impacts) or over-regulated (harming efficiency), the WDR suggests that a variety of levels of regulation are possible within a range of 'modest' impact that it calls a 'plateau'. The approach, based on analysis of empirical evidence rather than preconceptions about labour regulations' costs and (lack of) benefits, debunks long-held assumptions at the IFIs of a strong and systematic negative relation between levels of regulation and economic outcomes. These assumptions underpinned the early editions of *Doing Business*.

Follow-up to the *World Development Report: Jobs*

Unions urged the Bank to follow up on the new directions proposed in the *WDR 2013: Jobs*, which is not a policy document but an analytical report, albeit a high profile one, issued by its research department. The Bank has taken action in some areas, but not in others. Among the latter is the recommendation to submit new development initiatives to a jobs lens.

Following up on the 'plateau' concept, in December 2015 the Bank published a report explaining the need for countries to adopt 'appropriate' labour market regulations and protections in four areas: employment contracts, minimum wages, dismissal procedures and income protection for the unemployed (severance pay and unemployment benefits). *Balancing Regulations to Promote Jobs* is the first World Bank report to caution in a substantive manner about the harm caused by insufficient labour regulations and protections, as well as problems created by excessive regulations[7]. It also includes the positive feature of strongly emphasising the need to involve social partners and the ILO in any labour law reform process.

However, questions remain as to how seriously this report is taken, or even known, within the Bank. What was initially presented as a 'labour regulations manual' to be used by Bank staff engaged in formulating advice on labour laws, eventually became a report issued in the name of its three co-authors. The revised status may be the result of internal pushback. The Bank has not taken action on the ITUC's suggestion to work on implementation plans for the report, and no national trade union has informed the ITUC about local Bank offices approaching them about putting it into practice.

One World Bank initiative that does include mechanisms for making the policy operational is the adoption of a labour standards lending requirement, or labour safeguard. 'Environmental and Social Standard 2: Labour and Working Conditions' was approved by the Bank's executive board in August 2016, after four years of consultation and deliberation, as part of a new *Environmental and Social Framework* (ESF)[8]. The Bank gave itself a further two years, until an unspecified date in 2018, before the ESF enters into effect.

The labour safeguard requires borrowers to respect certain workers' rights in Bank-financed projects. It covers the four themes of the CLS, but with an important caveat described below. Additionally, borrowers must provide written information to workers about their working conditions and rights, ensure a safe working environment, ensure that the safeguard is applied to contract as well as direct employees and take measures to identify risks of child labour, forced labour or dangerous working conditions among primary suppliers. Procurement must be shifted to other suppliers if these situations are not corrected.

Adoption of 'labour safeguards'

Although the World Bank frequently prides itself on breaking new ground among development finance institutions on issues ranging from poverty eradication to climate change, in the area of ensuring respect for workers' rights it has actually been a laggard. The implementation in 2018 of an obligatory labour standard will follow labour safeguards applied since 2006 by its own private-sector lending arm the International Finance Corporation, 2008 by the European Bank for Reconstruction and Development and 2014 by the African Development Bank.

The global labour movement began advocating a labour safeguard in the late 1990s and for several years found some of the regional development banks and IFC to be more receptive than the World Bank. Enforcement of the safeguards has been uneven, however, and the World Bank promised to avoid that by taking an exceptionally long phasing-in period for the new policy and working jointly with potential partners, such as trade unions, to ensure full compliance. The ITUC took up the invitation by submitting detailed proposals for implementation of the labour safeguard. More than half a year after the policy was adopted, the ITUC and Global Union Federations had not yet received feedback to their proposals.

The Bank's new labour safeguard also suffers from weaknesses that could handicap its effectiveness. Principal among these is the lack of reference to CLS, even though the other banks with a labour safeguard include an explicit reference to them or the relevant ILO conventions. The qualified endorsement of workers' freedom of association and collective bargaining rights – the safeguard supports them 'in a manner consistent with national law' – may explain the reluctance to acknowledge the CLS. No such proviso limits support for the prevention of forced labour, child labour and discrimination.

While this may not mean that the Bank intends to reinterpret fundamental workers' rights according to its own views, at the very least it will make it more difficult to collaborate with the ILO for implementing a policy that does not acknowledge its standard-setting role. Other issues concern enforcement mechanisms for the new ESF and its lack of application to 'development policy' (as opposed to project) lending, which have been raised by various civil society organisations.

Actions to match the rhetoric

The World Bank has made considerable progress over the past several years in placing value on respect for workers' rights, creation of quality employment and improved social protection. However, rhetorical advances have not always been matched by the Bank's operations and country-level policy advice, creating a continuous challenge for trade unions, civil society organisations and the ILO.

It is also impossible to rule out the potential of backward movement. Steps for improved policies on labour taken by the Bank have not been unanimously shared by all officials, and the institution is susceptible to bending to political winds – especially in the US where the Bank is based. One can imagine that president Trump's promise to eliminate two regulations for every new one created must have been music to the ears of the Bank's deregulation specialists at Doing Business. Even though the report has not published its labour market flexibility indicator since 2009, the Doing Business team has persisted in continuing to collect the raw data for the indicator, perhaps in the hope that a powerful new champion would one day emerge.

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Notes

1 World Bank, *Doing Business in 2004*, 2004, page xix (http://www.doingbusiness.org/reports/global-reports/doing-business-2004)

2 World Bank, *Environmental and Social Framework*, 2016, page 55 (http://consultations.worldbank.org/Data/hub/files/consultation-template/review-and-update-world-bank-safeguard-policies/en/materials/the_esf_clean_final_for_public_disclosure_post_board_august_4.pdf)

3 IFC/World Bank, '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

4 World Bank, 'Doing Business: Employing Workers Indicator Consultative Group', 2009 (http://www.doingbusiness.org/methodology/consultative-group)

5 World Bank, *World Development Report 2013: Jobs,* 2012 (http://siteresources.worldbank.org/EXTNWDR2013/Resources/8258024-1320950747192/8260293-1322665883147/WDR_2013_Report.pdf)

6 Ibid, pages 155-156

7 World Bank, *Balancing Regulations to Promote Jobs*, 2015 (http://documents.worldbank.org/curated/en/636721468187738877/pdf/101596-REPLACEMENT-WP-PUBLIC-12-9-15-Box394816B-Balancing-regulations-to-promote-jobs-FINAL-web-version.pdf)

8 World Bank, *Environmental and Social Framework*, 2016, pages 52-60

9 World Bank, 'Speech by World Bank Group President Jim Yong Kim on Universal Health Coverage in Emerging Economies', January 2014(http://beta.worldbank.org/en/news/speech/2014/01/14/speech-world-bank-group-president-jim-yong-kim-health-emerging-economies) and ILO, 'A joint mission and plan of action: Universal social protection to ensure that no one is left behind', June 2015 (http://www.ilo.org/global/about-the-ilo/how-the-ilo-works/ilo-director-general/statements-and-speeches/WCMS_378984/lang--en/index.htm)

10 World Bank, 'World Bank, ILO Announce New Push for Universal Social Protection', September 2016, page 5 (http://beta.worldbank.org/en/news/press-release/2016/09/21/world-bank-ilo-announce-new-push-for-universal-social-protection)