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LABOR AND THE BANK: INVESTIGATING THE POLITICS OF THE WORLD BANK'S EMPLOYING WORKERS INDEX

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ABSTRACT

For many years, trade unions have pressured international financial organizations such as the World Bank to better incorporate protections for workers. A recent development in this contestation was the World Bank's 2009 announcement regarding its controversial "Employing Workers Index" in its widely circulated *Doing Business* report. Trade unions had argued that the index, which promoted flexible labor market policies, did not respect the international norm of worker protections, and urged the World Bank to change the index. As a result, the Doing Business Group pledged to reform the Employing Workers Index and to create a new index on protecting workers. While the 2009 announcement represents a victory for the trade union movement, and, on the surface, seems to suggest a new respect for workers' rights at the World Bank, the effects of this reform remain unclear. Based on both the history of interactions between trade unions and the World Bank and the limited changes to the *Doing Business 2010* report, this article expresses skepticism about whether the 2009 reform represents a significant shift in the World Bank's neoliberal approach to labor. While the World Bank remains rhetorically committed both to promoting protections for workers and to collaborating with trade unions, its policies continue to promote labor flexibility. I argue that the World Bank's abandonment of the index was a strategic choice prompted by pressure from unions in conjunction with a hostile political environment brought about by the recent financial crisis.

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INTRODUCTION

In April 2009, the World Bank announced a reform that suggested a change in its attitude toward labor rights. For several years, trade unions had campaigned against *Doing Business,* a controversial country index that included a section that rank-ordered countries on employment regulation. This index, the Employing Workers Index (EWI), gave higher scores to countries that provided fewer legal protections for workers. The World Bank released a note in April 2009 saying that the Doing Business Group would revise the EWI to better handle the social, political, and economic challenges of the financial crisis. This short note included pledges to do the following: circulate a memo to staff that the EWI no longer represented World Bank policy; adjust the index's methodology to further comply with the conventions of the International Labor Organization (ILO); hold future consultation with the ILO and civil society members; and create a new *Doing Business* indicator on worker protection (World Bank, 2009). Labor organizations and their allies welcomed this news (International Trade Union Confederation [ITUC], 2009b).

Created in 2003, *Doing Business* has become the World Bank's most widely circulated data index, its "flagship" publication (World Bank and International Finance Corporation, 2009). *Doing Business* ranks over 180 countries based on their relative "ease of doing business." This quantitative figure is based on a number of factors, such as the ease of starting a new business, taxes, contract enforcement, and permit regulations. A publication of the private investment wing of the World Bank, the International Finance Corporation (IFC), it is part of a larger initiative by the Bank to create best practices for countries seeking to create optimal "business climates." Unlike the IFC's development loans program, *Doing Business* does not place obligations on states based on its findings. However, the World Bankcreated the Doing Business Index with the purpose of influencing and motivating the design of effective national level reforms (World Bank and International Finance Corporation, 2008). This document is therefore an important component of the World Bank's aspiration to be a "knowledge bank" (Plehwe, 2007).

The role that the World Bank plays in defining and constructing knowledge surrounding labor practices is important for material and ideational reasons. Because of its ability to attach conditions to loans, some of the Bank's influence is directly tied to the material benefits of its lending programs. The Bank also has power over developing states' reputations and international "creditworthiness" (Weaver 2007: 502). The World Bank's epistemic power is based on its ability to define and widely distribute its construction of social issues. The World Bank's knowledge creation shapes and influences policy and domestic debates (Das, 2009). In addition, economists, state leaders, journalists, and academics in the North and South use their information in making policy and investment decisions (Goldman, 2005).

The first report, *Doing Business 2004,* both created a general Ease of Doing Business Index and ranked countries in five different categories, including the legal regulations over terms of employment, that is, the EWI (World Bank and International Finance Corporation, 2004). *Doing Business* quickly became the most widely circulated of all the World Bank's many publications, gaining prominence over the World Bank's annual *Development Report.* According to the World Bank, the *Doing Business* annual reports are one of the Bank's "flagship knowledge products" (World Bank Independent Evaluation Group, 2008: xv); the *Doing Business* report has received attention from international media outlets and policymakers (Davis, 2008). It is widely referenced and lauded by a number of media outlets, academics, and state leaders (World Bank and International Finance Corporation, 2008). Its initial publication was hailed as a "splendid" contribution, necessary to create the best policy prescriptions, independent of "ideology" (*Economist,* 2004). *Doing Business,* as the World Bank's most widely circulated publication, is a part of its soft power and influence.

The EWI was intended to help states promote private sector investment, to help create new jobs and increase incomes. By creating an index that rank-ordered countries' "investment climates," the World Bank sought to influence and motivate the design of effective national- level reforms (World Bank and International Finance Corporation 2008: 3). Simeon Djankov, the author of the 2005 report, stated that 21 different reforms resulted from the first two years of the report's publication. Djankov suggested that ranking countries created incentives for change, comparing the competition of deregulation to sports, because "If you keep score, no one wants to lose" (*Economist,* 2005).

This article focuses on the contestation over *Doing Business*'s employment index, the EWI. The EWI gave lower rankings to countries that provided stronger legal protections, a move that resulted in repeated criticisms from the ITUC, the AFL-CIO, the ILO, and representatives from both the U.S. and German governments. The Employing Workers Index (EWI) was based on three factors: difficulty in hiring and firing workers; costs of hiring and firing workers; and rigidity of hours (World Bank and International Finance Corporation, 2009). Prior to the reform in 2009, each of the following policies were considered a hindrance to business: regulating working hours (maximum of 66 a week); setting a minimum wage above 25% of the average value added per worker; protecting against dismissal; or limiting the use of fixed contracts (temporary work) (Bakvis, 2009).

Though the EWI is only one of many indicators included in the *Doing Business* report, the ITUC documented in 2007 that the World Bank had used the EWI to promote reforms in 23 cases (Kryvoi, 2009; Lee, 2007). The World Bank included the EWI scores and policy prescriptions in a number of its assessments and programs, including the Country Economic Memoranda, Country Assistance Strategies, and Country Partnership Strategies. The World Bank included EWI scores in its Policy and Institutional Assessment, which it uses in allocating aid, credit, debt ceiling, and conditionality (International Trade Union Confederation/Global Unions, 2007). Members of the Doing Business working group have defended the EWI. Michael Klein, the chief economist at the International Finance Corporation, stated that "flexible labor markets tend to be good for people who don't have jobs. More rigid markets are more favorable to people who already have jobs. In emerging markets, labor-market rigidity is very high" (Davis, 2008: A6).

The World Bank's statement recognizing the problems with the EWI represents an important victory for organized labor, but it is unclear to what extent this reflects a new approach to labor protection and regulation. The World Bank has dealt with and responded to criticisms about its labor-related practices from organized labor, the ILO, and civil society for several decades (O'Brien et al., 2000). Yet the tension between core protections for workers and the World Bank's emphasis on neoliberal labor flexibility remains unresolved. By neoliberal, I mean the dominant political economic ideology that promotes a free market, free trade, free capital movement, and minimal state regulation, as well as market-driven social policies, as the optimal policy solution for states and for global governance (Brenner & Theodore, 2002; Harvey, 2005). This article investigates whether or not the revision of the EWI reflects a new respect for labor rights at the World Bank and possibly within the larger economic regulatory regime. While recognizing the importance of the trade union movement, I argue that the changes to the EWI do not provide evidence that the World Bank has internalized the norm of worker protection. Rather, the World Bank's new rhetoric is best understood as a cosmetic change brought about by the possible crisis of legitimacy stemming from the global financial crisis.

LABOR AND THE BANK: BACKGROUND

While the World Bank does not have a specifically labor-related mandate, the "social question" has been important for the World Bank and other multilateral economic institutions. Beginning in the 1980s, with the introduction of structural adjustment policies, multilateral financial institutions began encouraging labor-related austerity measures, such as cutting public employing during economic crises. In the 1990s, the International Monetary Fund (IMF) and World Bank began to attach strong conditions to loans that promoted labor flexibility as necessary for such optimal economic outcomes as macroeconomic stability and GDP growth (Anner & Caraway, 2010). As a result, international trade unions, the ILO, and other civil society actors also began to push for greater recognition and inclusion of international labor standards in international economic contexts during the 1990s.

The *Doing Business* project, in contrast, attempts to create a universal set of "best practices" for all countries seeking to promote economic welfare, not just to help countries in crisis with economic readjustments. States should employ these practices because they constitute good economic governance practices. In other words, the World Bank is creating new norms for states in the global economy. Despite criticism from prominent economists at the end of the East Asian financial crisis that the Washington Consensus's "one size fits all" model was counterproductive (Stiglitz, 2003; Wade & Veneroso, 1998), this rank-ordering and categorization of 181 national economies reinforces the concept that certain economic practices and rules apply universally.

Since the 1990s, trade unions have protested the way in which the World Bank and other key international economic institutions have reduced labor to just another cost in the production process, with varying results. Trade unions have urged the World Bank to include core labor standards in their programs. In 2000, a press release by the World Bank made only tepid commitments to engage in further conversations about the importance of core labor standards and development, stating only that they may be compatible. The press release expressed support for labor standards regulating child labor and forced labor, as well as for gender equality in the labor market, but it did not support trade union rights (World Bank, 2000). When international trade union leaders met with leaders from the IMF and World Bank in October 2001, James Wolfensohn, the president of the Bank until 2005, stated that the IMF and the World Bank supported the ILO conventions that provided protections against child labor, forced labor, and discrimination. However, the institutions did not support the rights to workers' associations and collective bargaining. Wolfensohn and other leaders claimed that all borrowing countries have their own national employment systems, some of which do not allow unions, and that the Fund and the Bank were not in a position to intervene in the business of sovereign states. The Bank and Fund leaders claimed that trade unions could hurt workers in developing countries because they created inflexible conditions (Edwards, 2001).

However, the ILO and trade unions, especially the International Confederation of Free Trade Unions, the predecessor to the ITUC, continued to press these international economic institutions. Since the 1990s, with criticism surrounding the East Asian financial crisis, the World Bank and IMF have instituted reforms that emphasize civil society engagement and transparency. As a result, the World Bank, IMF, and trade unions agreed to regular joint meetings to discuss labor-related issues, which they began holding in 2001. In 2003, the World Bank announced that based on its research, it could now endorse core labor standards as part of the development project (World Bank, 2003). The World Bank created its "Core Labor Standards Toolkit," which directed staff to include core labor standards in the Country Assistance Strategy (CAS) reports (Committee on Monitoring International Labor Standards, 2004). A Country Assistance Strategy is a document, created by Bank staff for active borrowing countries, that both outlines hindrances to development and identifies ways in which the Bank can provide the best assistance in poverty reduction. The Core Labor Standards Toolkit provides Bank staff with information on core labor standards, which are to be included within a country's CAS (World Bank, 2010). However, while the inclusion of labor protections was a positive development, the Core Labor Standards Toolkit did not create conditions for loans, but rather provided guidelines for finding information about a borrowing country's core labor standards. This fell short of the trade unions' goal of incorporating of core labor standards into World Bank conditionality.

During the consultation process, the World Bank did agree to a significant institutional reform that incorporated labor standards. In February 2006, the IFC added the four core labor standards to the PS2, which are the conditions required from borrowing companies. This new set of conditions, which the World Bank created in consultations with trade unions and the ILO, placed obligations on companies, not states (International Confederation of Free Trade Unions, 2006). In April 2006, the World Bank's public sector lending division included core labor standards conditions in the "Standard Bidding Document for Procurement of Works." In addition, Equator Banks, the commercial lending banks that follow the World Bank's environmental standards, called "Equator Principles," also adopted core labor standards as a requirement for private companies that take out loans. Equator Banks currently fund about 80% of international private financing in the development world (International Finance Corporation, 2006; Polaski, 2007). In light of the other changes, the World Bank's suspension of the EWI seems like another step in the slow, but progressing, adoption of better labor standards as an important business practice. One could conclude that the World Bank had incorporated the norm of core labor standards and perhaps this challenged the hegemony of the neoliberal labor market's practice. However, the evidence so far suggests that even these institutional reforms do not yet demonstrate a challenge to neoliberal approaches to labor at the World Bank.

CONTENTION SURROUNDING "DOING BUSINESS"

This section will consider the history of protests by trade unions, the ILO, and other actors against EWI, and the responses of the World Bank, in order to evaluate the World Bank's relationship to the labor protection norm. As soon as the first *Doing Business* report was initially released in 2003, the employment indicator was recognized as problematic because it regarded labor as just another part of the production input and therefore recommended reducing labor costs (Høyland, Moene, & Willumson, 2008). Because of the potential influence of the EWI, trade unions and the ILO critiqued *Doing Business.* Between 2004 and 2008, the ITUC sent 10 statements of concern to the World Bank about the EWI (Bakvis, 2009). In addition, trade union groups such as the ITUC and Global Unions used occasional joint meetings with the IMF and the Bank as opportunities to protest *Doing Business.* During these meetings, the unions pressured the international financial institutions (IFIs) to incorporate core labor standards into these institutions' structural adjustment conditions. The proceedings of these joint meetings show that the World Bank expressed support for incorporating labor protections and trade union consultation, but this did not translate into strong protections for core labor standards. Rather, progress was slow, and often institutional reforms lacked sufficient teeth. There is little evidence from these meetings that the World Bank had internalized the labor protection norm.

Between 2004 and 2009, trade unions criticized the EWI and the World Bank's general failure to address labor rights in a number of ways. Trade unions often pushed the World Bank to absorb core labor standards into its country loan conditionality. The World Bank includes strong macroeconomic policy conditions on its loans to borrowing countries. The ILO and the ITUC also sought greater consultation and inclusion of trade union representatives in both country-level and central policymaking. Trade union representatives also expressed frustration at the gap between the Bank's rhetoric of commitment to core labor standards and its actual practices. In fact, the trade union representatives argued that the Bank's claim to endorse core labor standards and the EWI's neoliberal approach to labor regulation were contradictory (International Monetary Fund and World Bank, 2004, 2006, 2007, 2009).

While the responses by World Bank representatives, and occasionally the President and Executive Directors, were generally positive, staffers gave many justifications explaining why greater protection of core labor rights was not possible. For example, World Bank representatives often responded to requests for core labor rights conditionality by claiming that the World Bank was relying less on conditionality and more on "country specific" policies. During the 2004 joint meeting, President Wolfensohn suggested that the trade unions' focus on structural adjustment should not be a concern, because the "Washington Consensus is dead" (International Monetary Fund and World Bank, 2004). When trade unions pressed the World Bank on this issue again during the 2006 joint meetings, representatives explained that the World Bank could not make core labor standards part of its loan conditionality, but the IFC could "condition" its private sector loans because it worked with private companies. However, the World Bank argued that the conditions on its major loans were based on consultations with countries, and therefore it could not intervene in countries' policies or impose policies on them (International Monetary Fund and World Bank, 2006). This was similar to the responses of the World Bank in 2000, when the World Bank representatives had told union members that trade union rights such as freedom of association and the right to collective bargaining fell outside the purview of the Bank, because they were too "political" (International Confederation of Free Trade Unions/World Bank/International Monetary Fund, 2000).

The World Bank's rhetoric of promoting trade union collaboration did not translate into collaboration with local World Bank officials and trade unions at the country level. During the 2007 meeting, the World Bank and trade unions discussed the results of a survey on trade union and World Bank staff interactions.

This survey found dissatisfaction among both groups. Trade unionists complained that many of the Country Assistance Strategies did not include core labor standards. In response, Bank staff members claimed that trade unionists often did not have "productive" meetings and that "unions should learn to manage their expectations." Another staffer stated that unions were "not prepared to discuss some economic issues" and lacked "technical capacity," suggesting that trade unions' focus on equity and justice made them ill-equipped to consult with Bank staffers (International Monetary Fund and World Bank, 2007).

During the joint meetings, the World Bank representatives frequently expressed their appreciation of the Bank's trade union consultations and collaborations and the high value the Bank placed on them, yet the Bank refused to take responsibility for the shortcomings in labor protection of its borrowing countries (International Monetary Fund and World Bank, 2007). Yet, when the trade union representatives expressed concern that union consultations within World Bank headquarters were not leading to changes at the country level, the World Bank representatives responded that this should be brought up to the country governments, not the World Bank. When trade union representatives from Croatia, Nepal, Colombia, Kenya, and the Dominican Republic cited the ways in which labor market flexibility reforms hurt workers, the World Bank suggested that workers and trade unions communicate instead with the relevant governments. World Bank representatives refused to acknowledge a link between country practices and the EWI, despite the Bank's claim to engage in knowledge production (International Monetary Fund and World Bank, 2006).

World Bank officials also frustrated the attempts of trade unions and their allies to promote greater cooperation and promote labor standards when Bank officials questioned their capacities. The ILO participated in these joint meetings and expressed a desire for greater collaboration with the Bank. However, one World Bank representative stated that the ILO was not adequately "equipped" to deal with policy issues. Another representative, from the World Bank's Social Protection Unit, stated that the ILO would have to increase its "research capacities" if it wanted to work as a "credible participant" in labor market research. The World Bank representative meant that the ILO staff lacked sufficient expertise in economic research. At this meeting, the World Bank representatives failed to acknowledge arguments that did not fit within the Bank's highly economistic framework. Other scholars working in the critical tradition have similarly documented the fact that the World Bank includes a wide variety of actors in its knowledge creation networks as a means to demonstrate its dedication to new norms, but that it acknowledges only those outside contributions that do not challenge its dominant, neoliberal economistic approach (Stone, 2003). Despite the ILO's position as the leading international organization in protecting workers, World Bank representatives did not see it as institutionally capable (International Monetary Fund and World Bank, 2006).

Yet the joint meetings did show that there was disagreement among highly placed World Bank staff about the EWI and *Doing Business.* During the 2004 meeting, the vice president of Private Sector Development defended the EWI because *Doing Business* was primarily concerned about wage creation (International Monetary Fund and World Bank, 2004). Yet in the 2006 joint meeting, a Bank representative noted that the EWI had caused "lively debate" among staff members and admitted that there was some bias in the EWI (International Monetary Fund and World Bank, 2006). When the World Bank Executive Directors met with trade union representatives during that same meeting, many of the executive directors commented on the EWI. "Some" argued that *Doing Business* should be totally scrapped, while "many" criticized the EWI. A few Executive Directors defended *Doing Business* and called it a useful tool. One claimed that some countries were using the EWI "incorrectly." However, President Wolfowitz (president in 2006–2007) was firm in his statement that overregulation, which the EWI sought to counsel against, hurts job growth and small business development (International Monetary Fund and World Bank, 2006). The diversity of opinions expressed by Executive Directors demonstrates the possibility for the socialization and internalization of the labor protection norm.

There is further evidence that trade union mobilization for the inclusion of core labor standards has had an influence on the *Doing Business* report. In the 2009 report, released in 2008, the Doing Business Group claimed that it had reformed the methodology of the EWI so that a state could respect all of the core labor standards and still receive a favorable EWI score. Notably, this was contested by an ILO Executive Director (Bakvis, 2009). At the January 2009 joint meeting, prior to the April 2009 announcement of the change in the EWI, the parties focused on the financial crisis and social protection. In response to World Bank Senior Vice President Justin Lin's call for protection for the poor, trade unions called for the complete abandonment of the policy of pushing the "total flexibility" of the labor market, since this policy had led to more informal and precarious labor. In response to questions about *Doing Business,* World Bank President Zoelleck acknowledged these concerns, stating that the World Bank needed to include information about each country's application of core labor standards, and he recommended changes to the EWI, to prevent states from dropping below certain minimum worker protections. For example, he suggested a floor on conditions such as the length of a workweek (International Monetary Fund and World Bank, 2009).

In addition to the dissent among the Executive Directors, the World Bank's own independent monitoring group also criticized the EWI in its 2008 report evaluating *Doing Business.* The report stressed the lack of consensus in the discipline of economics as to whether policy and regulations were the most important factors for promoting private section development (World Bank and International Finance Corporation, 2008). According to the report, many World

Bank staffers also questioned whether regulations and national laws were the most important factors in determining investment. Rather, the report stated, most World Bank experts identified political stability, access to infrastructure, access to credit, and human capital as the most important factors in promoting private sector investment. The report also pointed out the many methodological and political problems of the EWI indicator (World Bank Independent Evaluation Group, 2008). While this evaluation supported trade union, ILO, and civil society criticism of the World Bank, it did not result in immediate changes, as the monitoring group did not have direct access to Bank management. In fact, the "Management Response," the Bank leadership's reply to the independent evaluation group's report, did not refer to the recommendations on changing the EWI index (World Bank Independent Evaluation Group, 2008).

In addition to participating in some of the joint meetings, the International Labor Organization criticized the EWI in its research and proceedings. For example, the ILO Governing Body criticized the EWI during its 2007 meeting (International Labour Office, 2007). The ILO's research team published a number of analyses of the EWI, which included criticism of its antiworker bias. Berg and Cazes' (2007) study criticized the methodologies used to determine the EWI index, claiming that they suffered from selection bias, unrealistic assumptions, reliance on subject indicators, and omitted variables. The study argued that states who took the ranking seriously could fall into a deregulative race to the bottom. Qualitative studies of Argentina and Bulgaria, which had both increased their labor flexibility, illustrated these negative effects. Lee, McCann, and Torm (2008) reached similar conclusions. Their review of the economic literature highlighted the lack of empirical evidence showing that flexible labor markets lead to an increase in employment and economic growth. They also argued that the EWI ignored social and political institutions by focusing primarily on legal regulations, failing to recognize that labor regulation can have beneficial effects, both economically and socially (Lee, McCann, & Torm, 2008).

Members of the U.S. Congress also expressed concerns about the EWI. Six U.S. senators criticized the EWI for rewarding countries that violate basic labor rights and encouraging the deregulation of workers' protections (Engler, 2006). In addition, the chair of the U.S. House Financial Services Committee, Barney Frank (D-Mass), held a hearing in October 2007, during which he denounced the World Bank's *Doing Business* index, with special attention to the EWI. Frank argued that *Doing Business* failed to properly recognize core labor standards, stating that "essentially what we get from the Doing Business report is that the nicer you are to your workers, the worse you are as a place to do business." Frank called this an "extraordinarily . . . simplistic and regressive approach." The hearing included testimonies from business representatives who defended *Doing Business* as an important service to both countries and investors, and testimonies from the AFL-CIO leaders, an international trade scholar, and a representative of the ITUC (Committee on Financial Services, 2007). The ITUC and the AFL-CIO continued to criticize the World Bank and *Doing Business* as subsequent reports were published, although both organizations lauded the 2009 decision to suspend the EWI.

Congressman Frank also sponsored an amendment to the House's authorization of funding for the World Bank's International Development Agency (IDA) in 2008. This amendment, H.R. 6306, sought to restrict the World Bank from using the EWI to undermine workers' rights (AFL-CIO, 2009). This amendment became part of a larger bill authorizing $3.7 billion for the World Bank, and calling for a reform of the "paying taxes" index of *Doing Business.* Frank had also held meetings with IMF Managing Director Dominique Strauss-Kahn and World Bank President Zoellick about *Doing Business.* Strauss-Kahn reportedly directed the IMF staff not to use the EWI as a basis for policy, based on methodological problems (Financial Services Committee, 2009).

While World Bank representatives often defended the EWI, the Doing Business Group did respond to its critics before the April 2009 announcement. This suggests that even though the Doing Business Group strongly supported the labor flexibility orthodoxy, it was not immune from civil society or other external pressures. The announcement of the change to the indicator came in a press release stating that development goals needed to be balanced with larger social goals, especially during a time of economic crisis. While not specifying clear commitments, the April 2009 press release stated that

> In addition, we will convene a working group including representatives from the ILO, as the international standard setting body, trade unions, businesses, academics and legal experts. This group can serve as an important source of advice on revising the EWI and on the establishment of a new worker protection indicator, as well as offering broader ideas on labor market and employment protection issues—with a view to creating regulations that help build robust jobs with adequate protection in the formal sector that can withstand future crises. (World Bank and International Finance Corporation , 2009)

This statement suggests that the Doing Business Group felt pressure to incorporate trade union, civil society, and ILO voices into its index to better reflect the Bank's commitment to core labor standards.

The results of the IFC's incorporation of core labor standards into its lending programs do not support the idea that internalization of the labor protection norms has occurred at the World Bank. One would expect to see a well-enforced and relatively quickly implemented regime promoting core labor standards within the IFC's lending practices, as evidence of a changing approach to labor standards. Wolfensohn first promised during the 2004 joint meetings with trade unions that the World Bank would soon include core labor standards in its standard bidding documents for private companies that wished to do business with the Bank (International Monetary Fund and World Bank, 2004). Yet at the 2006 meeting, Bank staffers did not provide any progress or news on this pledge. Only in 2009 did Bank officials announce progress, when a procurement officer told trade unionists that the four core labor standards had been incorporated in all of the World Bank's civil works projects. The Bank recognized that there was a problem with compliance, and it was considering creating a complaint mechanism. President Zoelleck reiterated the Bank's support for including core labor standards in the Bank's procurement standards. However, the trade unionists stated during the 2009 joint meetings that the IFC guidelines lacked effective compliance procedures or timelines. The third party auditors enforcing the guidelines often lacked experience in trade union rights (International Monetary Fund and World Bank, 2009).

EVALUATING THE 2009 "REFORM"

In the April 2009 note titled "Revisions to the EWI Indicator," the World Bank communicated that the business climate is only one of many important elements of developmental policies, and other inputs should also be given "appropriate weight." The note lists "political stability, social safety nets to shield vulnerable parts of society from intolerable levels of risk and protection of rights for workers and households as well as for firms." Governments should also focus on the needs of workers and poor households, not just the needs of businesses. The statement commits the Word Bank to "scaling up our work on social safety nets," during the period of economic crisis (World Bank, 2009). The rhetoric within the "Revisions to the EWI Indicator" note suggests that the World Bank now wants to value the interests of workers and vulnerable populations as much as it values firms.

According to a "social learning" argument, the World Bank, or at least the Doing Business Group, has been persuaded by trade unions and other critics to promote the norm of labor protection over the neoliberal commodification of labor. This promise of reform can be seen as a moment of socialization and learning. Prior to 2009, Bank officials rhetorically supported and made some concessions toward core labor standards, such as the inclusion of these within IFC standards. However, during its joint meetings with the IMF and trade unions, World Bank representatives expressed reluctance to engage in substantive institutional reforms, such as labor protection conditionality. The critical approach would point to a general crisis of legitimacy that the World Bank suffered given its promotion of labor flexibility in light of the financial crisis. According to an in-depth study of the World Bank since the 1990s, the Bank has suffered from intense criticism from a number of external actors, but because of its politically motivated, yet disparate, leadership, the Bank has lacked a clear vision of its new direction (Weaver, 2007).

It is not clear how the April 2009 revision of the EWI affects the position of labor standards at the World Bank. It is notable that the *Doing Business 2010* report contains little evidence of norm socialization at the World Bank. Only a few changes have been incorporated in the 2010 *Doing Business* report. The new EWI measure changed the methodology of calculating the index, including more generous allowances for legal minimums for night and holiday pay. The revised index does not penalize countries that provide minimum wages above $1.25/day (adjusted for purchasing power parity) and allows for a minimum threshold for severance pay (World Bank and International Finance Corporation, 2009). The 2010 report also includes the beginnings of a Protecting Workers index. The Bank's 2009 note included a pledge to create a new Protecting Workers indicator. This was supposed to present information on whether a country's laws were in compliance with the core labor standards. However, the 2010 report focused solely on the child labor protections, evaluating 102 countries on the basis of whether their employment laws set a minimum age of 14 or 15 years for general employment, 18 years for hazardous work, and 12 or 13 years for light employment (World Bank, 2009). The 2010 report stated that more labor conventions would be incorporated into the Protecting Workers Index with the guidance of the ILO, but it is notable that trade union rights, the more controversial core labor conventions that the Bank had rejected as recently as 2001, were not included in this early study.

In the written introduction to the Employing Workers Index, the 2010 *Doing Business* report stated that regulations were necessary to protect workers from "from arbitrary or unfair treatment and to ensure efficient contracting between employers and workers." It referenced "flexicurity," a principle that promotes both labor market flexibility and social safety nets, endorsed by the ILO and the Organization of Economic Cooperation and Development (OECD), as important during the financial crisis. The report reiterated that a state should follow the highest levels of labor flexibility measures promoted by *Doing Business,* while still complying with the core labor conventions of the ILO. Unlike earlier reports, this introduction did make some arguments for "adequate safety nets" to deal with unemployment and poverty. While the report was sensitive to the fact that "reform is challenging," the general narrative, claiming that more labor regulation led to more unemployment and informal labor markets, remained the same. Ultimately, the message of the report was quite mixed. The report stated both that unemployment insurance could be a good policy and also that it could prolong unemployment. The final part of the Employing Workers' Index report praised "unemployment insurance savings accounts," which create private funds for workers, as a policy choice that did not risk distorting the incentives for unemployed workers (World Bank and International Finance Corporation, 2009).

The methodological changes promised in April 2009 did not lead to a substantive shift in the outcome of the EWI, nor do they represent a shift toward a commitment to social safety nets and employment concerns. This change to the EWI resulted in only a few changes being incorporated in the 2010 version of the *Doing Business* report. The new EWI measure changed the methodology of calculating the index, including a slightly more generous allowance for legal minimums for night and holiday pay. The revised index does not penalize countries that provide minimum wages above $1.25/day (adjusted for purchasing power parity), and allows for a minimumthreshold for severance pay (World Bank and International Finance Corporation, 2009).

Countries with legal frameworks that protected workers from suffering at the whim of employers were still given lower scores in the EWI. For example, EWI 2010 gave higher rankings to countries that had fewer restrictions on fixed term contracts (which allow for temporary work), with lower minimum wages (as long as the daily wage was above the World Bank–determined poverty line), and with fewer restrictions and regulations on night, weekend, holiday, and overtime work. The "reformed" EWI still gave higher rankings to countries that created few obligations for employers in terms of layoff and termination notification and preferential (priority) treatment of laid off workers, including fewer costs for employers related to redundancy. Even a policy requirement of notification three months prior to layoffs was considered a detriment to doing business (World Bank & International Finance Corporation, 2009). In fact, even though the April 2009 statement noted that social security and workers' protections were important during an economic crisis, the *Doing Business* report criticized countries like Honduras for implementing such reforms to deal with the financial crisis (International Trade Union Confederation, 2009a).

This lack of substantive change did not go unnoticed by trade unions. The ITUC, which had praised the April 2009 announcement on the change in the EWI, released a statement expressing its disappointment with the 2010 *Doing Business* report. Notably, the 2010 report did not include any statements explaining the April announcement: it gave no reasons why the EWI had constituted World Bank policy or why it was no longer the appropriate basis for loan conditionality. In addition, the EWI indicator still penalized countries that had legal protections for workers: Cambodia, for instance, received a lower ranking because of its new social security deductions. *Doing Business 2010* also penalized low or no cost measures that contribute to workers' interests, such as Portugal's requirement that employers give employees two weeks advance notice before laying them off. ITUC General Secretary Guy Ryder criticized *Doing Business* for failing to publicize the fact that the EWI was no longer World Bank policy, failing to adequately address the increased insecurity of workers during the current economic crisis, and failing to provide strong protections for employees' interests (International Trade Union Confederation, 2009a).

The *Doing Business* report remains an important knowledge product of the World Bank. Yet while trade unions were able to influence the Doing Business Group, the evidence provided thus far by the 2010 *Doing Business* report demonstrates that rather than a strong commitment to workers' rights, neoliberal and market ideologies remain hegemonic . But despite this early evidence, greater influence and deeper incorporation of the labor protection norm in the World

Bank is still possible. The global financial crisis was an important opportunity for the adoption of new social norms, and whether the effects of the crisis will challenge future economic ideologies has not yet been established. The fact that *Doing Business* is creating the Protecting Workers Index, in conjunction with the ILO and civil society actors, seems promising, and suggests a possible sea change. States may feel competitive pressure to ratchet up their protections for workers, creating a possible "race to the top." In addition, some of the most draconian aspects of the original EWI have been reformed. While states are still encouraged to have lower minimum wages, the reformed indicator allows for minimum wages set above poverty levels. The EWI is also more generous in its definition of appropriate work hours regulations.

However, there are a number of reasons to remain suspicious of these changes. In addition to the continuation of the flexibility measurements, the World Bank's track record in its collaboration with civil society and reforming influences has been mixed at best, and this collaboration has been unsuccessful according to some critics. For example, critical scholars who have studied the influence of the environmental activist networks in the World Bank have noted that even significant reforms have not changed outcomes. The World Bank now works with many NGOs in creating "green knowledge" prior to beginning new projects. But even though information production in the World Bank has become more diffuse and decentralized, much of the information that goes against the dominant discourse is ignored (Goldman, 2005). Rather than substantively changing its practices, the World Bank has used such critiques to "reinvent itself, tame its critics, and intervene in an ever-growing number of institutions, terrains, and social bodies" (Goldman, 2005: 5). Attempts by activists and NGOs to push the norm of environmental sustainability into the World Bank's mission has resulted in an evolution of the neoliberal agenda rather than a challenge to it, and this has provided further opportunities for intervention and privatization (Goldman, 2005).

Furthermore, it is difficult to gauge how changes to *Doing Business* will influence the rest of the policymaking decisions, recommendations, and conditionalities created by the World Bank. As mentioned earlier, the EWI is one attempt by one World Bank research group to create a scientific and objective set of neoliberal policies for states. In other words, *Doing Business* represents an already dominant discourse within development and economic contexts. While *Doing Business* was unique because of its benchmarking, its policy recommendations were not new. Rather, the quantitative figures were useful in providing an authoritative, technical veneer to the preferred policies of the experts at the World Bank, the IMF, and the OECD. Citizens, workers, civil society organizations, and international organizations such as the ILO opposed these policies.

In addition, the labor flexibility policies that discourage regulation and protection for workers precede *Doing Business*. Many developing countries engaged in labor market flexibility reforms starting in the 1990s, as part of larger reform packages or because of competitive economic pressures (Cook, 2007). According to a trade unionstudy of IMF and World Bank documents in 27 countries, labor flexibility was a key condition for many lending programs. For example, labor flexibility reforms were a "structural benchmark," meaning a key condition, of a loan to Nicaragua (Lloyd & Weissman, 2001). While South Korea, for instance, introduced significant labor flexibility reforms in connection with IMF loans, it was not necessarily coerced into doing so. Rather, powerful business interests had already sought such reforms, although the parliament had found them politically difficult to implement prior to the IMF bailout in 1997 (Koo, 2001). The South Korean case suggests that countries may feel competitive pressure to engage in labor flexibility reforms, independent of the kinds of knowledge that the World Bank creates. In other words, market pressures may be the key motivation behind states' adoption of labor flexibility policies, while World Bank support may legitimize existing interests.

CONCLUSION

This article is an early exploration of the ways in which labor flexibility rules and policies clash with the long-standing labor protections and rights regime. The World Bank's claim that a country can both minimize the costs of labor and fully protect the key labor conventions seems counterintuitive. *Doing Business 2010*'s attempts to both promote flexibility and respond to the strong critiques of their EWI demonstrates this difficulty. Policies promoting labor market flexibility challenge the underlying foundations of the international norm of labor protection, the understanding that labor is more than a simple factor of production. The "reformed" EWI seeks to reinscribe the commodification of labor as a "good practice," while paying lip service to worker protections and social safety nets. I argue, therefore, that there remains little evidence that the EWI reform constitutes socialization or incorporation of the norm of core labor standards within the World Bank. While the development of the Protecting Workers Index is promising, it is unclear whether this will create an incentive for states to protect core labor standards.

While the critical perspective is pessimistic about the future of worker protections at the Bank, it is still possible that a larger ideological shift is occurring. The April 2009 press release, as well as the January 2009 joint meeting with the World Bank, IMF, and trade unions, stressed the relevance of the financial crisis. A significant "empirical fact" supporting labor flexibility claims has been challenged. This fact, which Freeman calls the "IMF-OECD orthodoxy," is a dominant paradigm within economics that holds the U.S. "employment miracle," as evidence for the efficacy of labor flexibility policies. Compared to peer economies, the American labor market has historically been the least regulated and most flexible; it has historically had the fewest job security and safety protections, the highest degree of mobility, and the lowest degree of union membership and coverage by collective agreements. Many believed the United States had higher employment than similar industrial economies because it allowed market forces to determine outcomes (Freeman, 2008).

One way to understand the small change in the EWI is to examine how the financial crisis has challenged the IMF-OECD orthodoxy. As the Bank is involved in "knowledge creation," the new, conflicting empirical evidence may be motivating Bank behavior as much as political pressure. Since 2008, unemployment statistics have created a chink in the labor flexibility story. By April 2009, the United States' unemployment rate had equaled that of Western Europe, a result of the financial crisis that the Center for Economic and Policy Research claimed "turned the case for the U.S. model almost entirely on its head" (Norris, 2009). While there are many reasons to question whether the calamities of the current financial crisis will change the hegemonic economic ideologies, especially given the lack of substantive political response to the social challenges of the crisis, the ways in which the crisis has discredited key claims of neoliberalism may prove to be important. Furthermore, the weakened economic position of the United States, traditionally the key proponent of neoliberal ideology within the Bank, may affect the global economic regime. While liberal market ideologies remain dominant, the continuation of the crisis may lead to a "significantly moderated" liberalism, as Robert Wade (2009: 559) argues.

In addition, while the Protecting Workers Index is currently in its early stages, the fact that the Doing Business Group has included key social partners in the creation of this index is another reason for possible optimism. The members of the consultative group creating the reformed EWI and the new Protecting Workers Index include prominent members of the trade union leadership and the ILO, which is promising (World Bank and International Finance Corporation, 2010). The index could serve as a useful tool for trade unions and NGOs to pressure national governments to create stronger protections for rights. Advocates might use this index in campaigns to focus on the labor practices associated with the investment practices of multinational corporations and other key institutional investors. However, the extent to which this index could create competitive incentives for states to implement policy changes is not clear. Unlike some of the other *Doing Business* indicators, such as the index on the ease of starting a business, it is not clear if states seeking private investment will be motivated to improve their labor protections to attract private investment.

In fact, it is possible that the opposite may happen, given the increased economic hardship resulting from the economic crisis. Emerging markets, those middle-income economies that became hot locations for foreign investment during the 1990s, may be particularly likely to lower their worker protections in times of credit problems and decreased international trade. While advanced industrial economies have clear competitive advantages in a strong infrastructure and human capital, second-tier economies may be motivated to lower their labor costs in an effort to compete against less-developed, and thus lower labor cost economies. Wade predicts that many emerging markets, including relatively prominent economies such as Argentina, Lithuania, Turkey, South Korea, and Venezuela, may be on the verge of collapse (Wade, 2009). A decision by policymakers in such economies to further promote labor flexibility at the cost of labor protection would affect a significant percentage of the working population. Any sort of contrary knowledge created and promoted by the World Bank would have little relevance in such a scenario. Furthermore, the political climate in the richest economies provides little evidence for optimism. Rather, neoliberal ideologies seem to be gaining support in the United States and Western Europe. With the electoral successes of rightwing parties in Europe and the dominance of the austerity discourse in both the United States and Europe, it is doubtful that the financial crisis has shifted economic ideologies toward a more protective stance (*New Zealand Herald,* 2010).

This article demonstrates the difficulty of understanding labor rights norms within the context of the neoliberal dominance of international economic institutions. While the core labor standards enjoy strong rhetorical support, there currently exists limited evidence that the "reform" of the EWI represents a strengthening of the worker protection norm. Therefore, it is difficult to gauge whether the World Bank has strongly adopted this norm, or whether the recent reform reflects a strategic choice in response to critics. *Doing Business*'s decision to suspend the EWI is an important step toward challenging the neoliberal international employment norm, but it is not yet clear how such a step will affect the strength and importance of this norm in the World Bank and beyond.

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