THE WORLD BANK AND CORE LABOUR STANDARDS: BETWEEN FLEXIBILITY AND REGULATION

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ABSTRACT

Over the past decade, the World Bank has moved closer to accepting the International Labour Organisation’s (ILO) core labour standards (CLS) and in the process, has sought to balance its focus on labour market flexibility with labour market regulation. The Bank’s change of approach includes the 2010 suspension of the Employing Workers Indicator utilised by the organisation to score the extent of labour market flexibility amongst its 187 member states. The aim of this paper is to distil the factors that have contributed to the softening of the Bank’s emphasis on flexibility. In particular, it will examine the work of international trade unions in broadening the commitment of the Bank to the ILO’s core labour standards. The roles of key pro-labour states both external to and inside the Bank will also be investigated to ascertain their contributions. It is argued that the Financial Crisis has provided labour standards proponents with a unique political opportunity to highlight the importance of social protection and regulatory approaches to governance. Finally, the implementation challenges involved in redirecting the Bank’s approach from utilising labour market flexibility indicators in its policy advice to evaluating and reporting labour market regulation in member states will be canvassed.

INTRODUCTION

In early 2009, after years of promoting labour market flexibility as the path to economic prosperity for member countries, the World Bank announced that it would instead work with unions and the ILO to develop an alternative approach reflecting the importance of labour market regulation. This paper investigates the reasons for the World Bank’s changing direction in regard to labour markets, focusing on the roles of international trade union groups, pro-labour governments, and the political context of the Financial Crisis. The World Bank’s softening approach to labour flexibility in line with the ILO’s standards also highlights the growing complexity of international regimes whereby single policy areas are governed (or at least impacted) by multiple intergovernmental organisations (IGOs).

The first half of the paper examines the issue of core labour standards (CLS) and the ongoing difficulties faced by trade unions and the ILO in enforcing these standards. This involves a discussion of the way in which various actors have attempted to engender greater support for CLS with a focus on recent progress at the World Bank. The second

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part of the paper offers a ‘first cut’ evaluation of the factors behind the World Bank’s change of direction in regard to CLS as well as the significance of the policy change. It argues that international trade union groups combined with supportive governments played (and continue to play) key roles in this process, whilst the Financial Crisis served as an accelerating factor.

LABOUR STANDARDS AND INTERNATIONAL ORGANISATIONS: SEARCHING FOR COMPLIANCE

The ILO was established by the Treaty of Versailles in 1919 and is considered the premier institution dealing with labour issues internationally. In 1946, the ILO became a UN-affiliated organisation and as of 2012 it has a membership of 183 states. The organisation’s system of representation is unique: it has a tripartite corporatist structure whereby representatives of labour and business participate in decision-making alongside governments on a 1:1:2 ratio.

The work of the ILO revolves around the administration of a system of international labour standards, contained in almost 190 conventions, “aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity” (ILO 2004: 143). Of these conventions, four categories of rights – freedom of association and collective bargaining, forced labour, discrimination and child labour – corresponding with 8 conventions have been put forward by the ILO as the core labour standards. These are: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182); Equal Remuneration Convention, 1951 (No. 100); and Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Several of these conventions have been endorsed in a number of arenas including in the UN Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966) and the 1995 UN World Summit for Social Development. The 1995 World Summit helped pave the way for international consensus on seven of the conventions in the June 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (C182 was not established until 1999).

Despite these declarations and endorsements, the ILO’s significant ongoing weakness is its inability to force member states to adhere to its conventions. In this respect, the organisation, with the help of trade unions and other NGOs is limited to publicising member states’ labour standards violations via its monitoring and compliance reporting procedures. This situation has been of great concern to the ILO and the international trade union movement who view labour standards as basic human rights that should be internationally respected. Hence, pro-labour states and non-state actors have engaged various mechanisms to improve member states’ compliance. Some of these attempts take the form of voluntary codes of conduct such as those integrated into various certification schemes, for instance, fair trade or the UN Global Compact. Trade unions have launched campaigns targeting individual multinational corporations (MNCs) and even entire industries, such as the sporting apparel sector. However, the jury is out on whether voluntary schemes and naming and shaming campaigns are leading to timely and significant improvements in compliance with labour standards, particularly in developing countries, which are most frequently cited for defying ILO conventions. In 1998, the ILO’s Declaration on Fundamental Principles and Rights at Work and its Follow-up determined
that member states must respect and promote CLS regardless of whether or not they have ratified them. Concurrently, the ILO, pro-labour states, trade unions and other NGOs have sought to engage those IGOs whose policy expertise and activities intersect with labour standards, in an effort to persuade them to align their policies and activities with the ILO’s core conventions. The methods and success of these actors in attempting to ensure greater policy consistency between the ILO and World Bank in regard to CLS is the subject of this paper.

**CLS AND THE WORLD BANK**

The adoption of the 1998 ILO Declaration and the 1999 Decent World Agenda (which contains the CLS as one of four pillars) provided the union movement with ammunition in lobbying IGOs (whose activities impact on labour markets) for the acceptance and implementation of CLS into their activities. In promoting ‘good’ governance and lending funds for large infrastructure projects in developing countries, (to which numerous conditions are attached), the World Bank’s work traverses labour standards issues. The World Bank lends over US$70 billion per year (World Bank 2010) to developing countries for projects that employ many thousands of workers whose rights at work might be determined by Bank conditionality. Further, the Bank’s research and reporting on governance in developing countries has repeatedly seen it advocate less government regulation and freer markets, including in relation to labour markets. The work of the World Bank thus intersects with, and has often undermined, the work of the ILO in promoting compliance with its labour conventions.

Following pressure from the International Confederation of Free Trade Unions or ICFTU (now the International Trade Union Confederation or ITUC), the World Bank has stated that it would not report on or integrate CLS into its lending conditions because it saw the evidence about the impact of CLS on economic growth as at best in doubt, and at worst, negative (Bakvis and McCoy 2008: 5; World Bank 2001: 29). The Bank stated that it did not view itself as having a role in dictating to developing countries on labour issues and that imposing conditions in regard to labour markets constituted political intervention (Anner and Caraway 2010: 158). According to the Bank’s Article IV/10, the organisation is prohibited from any political activity. Yet, this position stood in direct contrast to Bank-imposed conditionality in regard to several other areas of a borrowing nation’s governance such as the privatisation of public services.

In 2002, following continued pressure from unions, the World Bank published its own survey that found no support for the Bank’s assumed negative link between labour standards and economic growth (Aidt and Tzannatos 2002). As a result, Bank president James Wolfensohn announced ‘in principle’ support for the ILO’s CLS but gave no sign that the Bank would integrate them into its lending conditions (Bakvis 2009: 423). The announcement did however lead to the Bank’s creation of the CLS Toolkit requiring staff to include CLS in Country Assistance Strategy (CAS) reports (Committee on Monitoring International Labor Standards, 2004). A CAS report details the opportunities and challenges to economic development for borrowing countries. The toolkit does not create conditions for loans, but rather sets guidelines for staff to enquire into a borrowing country’s CLS.

In September 2003, the head of the International Finance Corporation (IFC), the private sector lending organisation of the World Bank Group, announced its agreement with trade unions and the ILO that private sector borrowers should be required to comply with the
CLS, and that as a result, the CLS would be incorporated into its new loan safeguard policy. This decision was not implemented until May 2006 when it was incorporated into the IFC Policy and Performance Standards on Social and Environmental Sustainability (IFC, 2006). European Union members of the Bank’s Board of Directors played an important role in helping oversee the adoption of “Performance Standard 2: Labour and Working Conditions” (PS2), which details the obligation of companies borrowing funds from the IFC to comply with CLS (Bavkis and McCoy 2008: 6). To implement this change, the IFC hired labour experts, created a Labour Advisory Group, provided staff training and developed documentation about compliance with the new CLS policy for both IFC staff and client companies (IFC 2007). In February 2007, in a further sign that the IFC is serious about implementing the CLS, the ILO and IFC together announced a partnership arrangement entitled ‘Better Work’ which “aims to improve both compliance with labour standards and competitiveness in global supply chains” (Better Work 2009).

Since the IFC’s attempts to incorporate the CLS into its lending practices, trade union groups have played key roles in monitoring the compliance of borrowing companies (see ITUC/Global Unions 2009). This is because the IFC’s own monitoring only covers a small portion of the activities it finances. ITUC and the Global Union Federations have alerted the IFC to several cases of possible PS2 violation. As Bakvis and McCoy (2008) have noted, unless notification of possible violations are filed by trade unions or other parties, the IFC only has the borrowing companies’ self-reporting to rely on. A constraint on union reporting and monitoring is that the IFC only grants unions up to two months to report on possible PS2 violations. Unions have called for more time and greater consultation. Overall, trade unions view the IFC’s implementation of the CLS requirement for all loans to be a positive development despite the ongoing challenge to ensure that the standards are adhered to.

Other World Bank group organisations have taken longer than the IFC to accept and take steps toward integrating the CLS into their work. In early 2004, the Bank’s procurement department allowed an expert on secondment from Building and Wood Workers’ International (a Global Union Federation) to prepare and deliver recommendations for aligning the Bank’s construction contracts with the CLS (Interview, ITUC Official, June 2011). In December 2006, the World Bank announced that it would include CLS clauses in its Standard Bidding Document (SBD) for Procurement of Works (ITUC, World Bank and IMF, 2007). SBDs are used by the public sector lending divisions of the Bank, the IBRD and the IDA, for public projects (mostly infrastructure projects) valued at over US$10 million. The new CLS clause in the SBD for procurement of works was derived from the IFC’s PS2. The Bank formally incorporated the new CLS clause into the SBDW in April 2007 for inclusion in new loan contracts. Further, the Bank sought to integrate the clause into the contracts used by other development banks. In explaining ITUC’s role in this development, an ITUC official stated that:

> [t]hings do move slowly over there [the Bank] but eventually they adopted in full the language we were seeking and incorporated that and then sponsored incorporating that language into the harmonised contracts used by all of the multilateral banks […] (Interview, June 2011).

Whilst the Bank has modified its approach to CLS, the biggest issue undermining its progress is its highest circulating ‘flagship’ publication, an annual report called Doing Business (World Bank and IFC 2009). Doing Business, published by the IFC, assesses nations on the basis of their economic openness. As stated on the website, it “provides
objective measures of business regulations for local firms in 183 economies and selected cities at the subnational level” (Doing Business 2010). The first edition of the report was published in October 2003 and ranked countries in regard to their levels of government regulation via five indicators: ease of starting a business, contract enforcement, credit registration, bankruptcy, and employing workers. 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 IFC, 2009). The greater the level of labour protection within a country, the lower its ranking against the EWI. Specifically, regulating working hours (maximum of 66 hours a week), setting a minimum wage above 25 percent of the average value added per worker; protecting against dismissal; or limiting the use of fixed contracts (temporary work) were regarded as negative for business (Bakvis 2009: 424).

Whilst Doing Business does not explicitly place obligations on countries, its rankings are intended to inform the design of national reforms in developing countries (World Bank and IFC 2008). Indeed, the Bank refers to the report as among its “flagship knowledge products” (World Bank Independent Evaluation Group 2008). Political leaders, the media, and academics use the rankings as a basis upon which to formulate policy (Davis 2008). The governance practices encouraged by Doing Business rankings are presented as politically neutral and the basis of good economic governance settings. For example, The Economist has labelled the contribution of the report as “ideology free” (2004). However, the Doing Business report’s role in “defining and constructing knowledge surrounding labor practices” is clearly an exertion of ideological power, particularly given the Bank’s ability to attach conditions to loans (Kang 2009: 482). Moreover, the rankings endow the Bank with power over the reputations of developing countries (see Weaver 2007: 502). According to a Bank official, whilst Doing Business has been viewed inside the institution as a very specific instrument on deregulation, the way in which it has been sold by the Doing Business team and interpreted by governments led to it being a something of “a seal of approval on the economic management of a country” (Interview, June 2011).

Regardless of the intentions of the Doing Business authors, and in defiance of Bank claims that the organisation is moving closer to integrating the CLS into their work, critics argue that the EWI has been explicitly used to promote labour market deregulation. Trade unions claim that Bank employers have drawn upon the EWI extensively as a basis for policy advice to developing countries; there is even evidence that the Bank has used Doing Business to set conditions for some loans and that its indicators have been taken on face value by personnel in World Bank field offices (Bakvis 2006: 6-12). The Bank has included EWI scores and associated policy prescriptions in a range of its programs including the Country Economic Memoranda, Country Assistance Strategies and Country Partnership Strategies as well as its Policy and Institutional Assessment used to allocate aid, credit, debt ceiling and conditionality (ITUC/Global Unions 2007). By 2007, ITUC claimed that the World Bank had used the EWI to promote reform in 23 countries and that 16 countries had reduced workers’ rights in response to the index (ITUC/Global Unions 2007: 18; Kryvoi 2009; Lee 2007). The Doing Business report stands in stark contrast not only to the Bank’s public commitment to CLS but also within the organisation itself. Critics view the report as undercutting claims about the ‘death’ of the Washington Consensus as well as the recent shift of focus to reducing poverty.

Since the release of the report, unions, governments of industrialised nations and the ILO have lobbied the World Bank to reform the EWI. Between 2004 and 2008, trade unions sent 10 statements to the Bank president about the impact of Doing Business on labour standards in developing countries (Bakvis 2009). They produced three detailed analyses
of the problems inherent in the indicators, as well as 23 cases of countries that had been pressured by the Bank to lower labour regulations on the basis of EWI ratings. Unions used their biennial joint meetings and follow-up meetings with the World Bank and IMF as opportunities to protest *Doing Business* and request that the Bank incorporate CLS into loan conditions. Further, the ILO and ITUC argued for greater consultation with trade union representatives at both the country and central levels of policymaking at the Bank.

In 2008, in its evaluation report on *Doing Business*, the Bank’s own independent monitoring group criticised the EWI. It explained that there was a lack of consensus in the discipline of economics regarding labour market regulation and its impact on private sector development (World Bank Independent Evaluation Group 2008). It also pointed out methodological and political problems with the EWI (World Bank Independent Evaluation Group, 2008). However, this report failed to have an immediate impact as the group did not have direct access to Bank management.

Some Bank donor governments began to express concern about *Doing Business* and its promotion of labour deregulation. Germany expressed concern in 2006 and 2007 (Interview, ITUC Official, June 2011). In 2008, the US House of Representatives conducted a hearing into the EWI (Kang 2009). This was followed by a US government funding proviso for the World Bank, which directed the institution to cease use of the EWI until it can reflect international workers’ rights standards (Bank Information Center, 2009).

In April 2009, the Bank issued a press release outlining its decision to revise the EWI in line with a more regulatory approach to better reflect the social, political, and economic challenges of the Financial Crisis (World Bank 2009). It stated that the labour indicator “does not constitute World Bank policy and should not be used as a basis for policy advice or in any country program documents”, and that it would be removed from the Bank’s conditionality framework. Further, the Bank stated by that

> [I]n 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 2009).

Labour organisations and their allies welcomed this news (ITUC 2009).

In September 2009, the Bank set up the Doing Business Employing Workers Consultative Group comprising members from IGOs, unions, employer associations, academia, and NGOs to conduct a review of *Doing Business*. The group’s terms of reference reflected many of the issues raised by unions. For example, one of the three elements of its terms of reference focused on aligning the EWI methodology with the basic minimum standards set out in the ILO Conventions in the areas of employee termination, weekly rest and working hours, holiday with pay and night work (Doing Business Employing Workers Consultative Group, 2011: 4). One of the stated goals of the group was to obtain the “right balance between measuring regulation and flexibility” (Doing Business Employing Workers Consultative Group, 2011: 1).
Despite the announcement of changes earlier in the year, the *Doing Business 2010* report released in late 2009 did not publicise that EWI was no longer Bank policy. Whilst the report stressed that the ILO’s CLS should be complied with, the only area of substantive change related to child labour protection, whereby 102 countries were evaluated according to whether their laws set a minimum age for employment (IFC 2009). The report made reference to the term ‘flexicurity’, also endorsed by the ILO and OECD, to mean the promotion of both labour flexibility and social safety nets. ITUC released a statement expressing disappointment with the 2010 report, noting that countries that had increased worker protection during the Financial Crisis were criticised in the report (ITUC 2009b).

It was not until the 2011 edition of *Doing Business* that the EWI was removed from the “Ease of Doing Business Index” and country rankings. While the data from which the EWI is calculated remained in an annex to the report, it was not scored nor was it taken into account in the calculation of the overall ease of Doing Business ranking (Doing Business Employing Workers Consultative Group 2011: 1). This was because the Doing Business Employing Workers Consultative Group’s work was incomplete at the time of publication. In releasing the 2011 report, the Bank, referring to the EWI, “instructed staff not to use the indicators as a basis for providing policy advice or evaluating country development programs or assistance strategies” (IFC 2010b).

The design of a new labour indicator, or Worker Protection Indicator (WPI), was investigated by the Consultative Group. During 2010, a note developed by the Bank’s Financial and Private Sector Development and Human Development Networks outlining a starting point for the development of a WPI was distributed and discussed by the Consultative Group. This note proposed that the Group recognise the ILO’s mandate and use the ILO’s CLS as a starting point. However, it also recognised some of the challenges in progressing the issue including whether or not to adopt the *Doing Business* methodology to measure worker protection and how to distinguish between a country’s law and practice. The Consultative Group’s final report lacked a clear proposal for integrating a meaningful WPI. Instead it presented two views: one highlighted the methodological difficulties of presenting a meaningful WPI, the other held that the *Doing Business* report “should reflect labor regulations holistically, or not at all” (Doing Business Employing Workers Consultative Group 2011: 10). The Bank is currently following up on the issue of the WPI with the ILO (Interview, ITUC Official, June 2011).

**EVALUATING THE WORLD BANK’S EVOLVING APPROACH TO CLS**

The World Bank’s changing approach to CLS over the past decade, while certainly not fast-paced, is nevertheless significant. It marks the initial stages of the Bank relinquishing some of its flexibility orthodoxy and seeking to strike a balance between flexibility and regulatory approaches in regard to labour markets. In addition, it signifies the beginnings of closer cooperation between the Bank, trade unions and the ILO. A preliminary analysis suggests that there are three key interrelated factors that prompted the Bank’s change of approach in regard to CLS. These include the advocacy of trade unions, the supportive positions of powerful donor member states (notably the US), and the global political context of the Financial Crisis. Each of these factors is explored below.

**The Agenda-setting Role of Trade Unions**

Trade union groups have been lobbying the World Bank for many years in regard to the CLS. Their key claim is that adherence to labour standards does not negatively impact
economic growth. In 2001, the Bank, IMF and trade unions commenced their ‘structured dialogue’, involving a regular set of meetings to discuss labour issues as they intersect with the institutions’ work. The dialogue involves biennial meetings and follow-up mechanisms to ensure that any commitments made by the IFIs are implemented. It further includes possible joint technical meetings on specific topics. According to a Bank official, the structured dialogue between the IFIs and trade unions is “the most significant level of interaction that’s been more systematic and institutionalised than with any other civil society constituency” (Interview, June 2011).

The structured dialogue has been important for trade unions in making their case for the Bank to respect the ILO’s CLS. It has allowed the unions to advocate for the integration of CLS at the Bank with an audience of Executive Directors and high-level Bank personnel. They have been able to strengthen their relationships with these individuals and have been accepted as authoritative, representative experts on labour rights and social justice. The dialogue has additionally involved staff secondments between the Bank and unions. The solidifying relationship has been the basis upon which unions have played an agenda-setting role in regard to the CLS at the Bank by way of developing and sharing knowledge on the link between labour standards, human rights and economic growth and proposing policy options to integrate CLS into Bank activities. Less than two years into the dialogue, the Bank agreed to conduct its own study into the relationship between CLS and economic growth, the results of which challenged the negative economic impact of labour regulation, leading the Bank to announce in-principle support for CLS.

Through their advocacy on CLS, trade unions have played some of the roles that Stone (2001: 46) points out are important for promoting policy transfer, in this case, ‘transferring’ the ILO’s CLS into the World Bank institutions. Trade unions have acted as advocates for policy proposals regarding how CLS might be implemented into the work of the IFIs, and as a “clearing house for information” though their work in assessing the implementation status of CLS at the IFC. Unions have also built networks with IGOs and governments via the structured dialogue and their participation in the US House Financial Services Committee hearing and the Doing Business Employing Workers Consultative Group.

Insider Advocates: Pro-CLS Governments

On top of putting the issue of the CLS on the table through their various activities, trade unions also sought the assistance of governments, specifically the US and various European governments, to support their actions inside the Bank. The United States has been a key ally for trade unions in lobbying for CLS at the WTO (Murphy 2010), though its record is somewhat mixed in assisting the CLS cause within the World Bank. For example, Kryvoi (2009: 56) points out that in regard to the EWI, the US consistently tops the rankings, suggesting that countries should adopt US-style labour regulations. Further, the US has only ratified eight out of more than 180 ILO conventions, including only 2 of the 8 CLS (ILO, 2011). States that have come under fire in regard to their Doing Business rankings (such as Poland, which has ratified 82 ILO conventions) have ratified many more ILO conventions. Kryvoi (2009: 56) takes this to mean that the US is undermining the ILO conventions. Yet the US has been proactive in insisting on labour standards provisions within its bilateral trade agreements and in other arenas. One possible explanatory factor is the US federal system of government in which individual states determine labour laws, thus making it difficult for the nation as a whole to sign up to and commit to ratifying ILO conventions.

Within the US, elected representatives have criticised the index for encouraging the
violation of basic labour rights. In October 2007, the Chair of the US House Financial Services Committee Barney Frank (a Democrat from the state of Massachusetts) presided over a hearing during which he criticised the EWI on the grounds that it does not take into account the ILO’s CLS (Kang 2009). Participating stakeholders included business representatives, national union leaders, academics, and the ITUC (Committee on Financial Services 2007). Following the hearing, Frank sponsored a 2008 amendment to the US authorisation of Bank funding designed to prevent the EWI being used to erode labour rights (Kang 2009). This amendment was incorporated into the US bill authorising $3.7 billion in World Bank funding. Frank also met with the IMF Managing Director Strauss-Kahn and the Bank President about Doing Business. As a result of these meetings, Strauss-Kahn directed IMF staff not to use the EWI in policy formulation due to questions surrounding its methodology (Kang 2009). This demonstrates that the US Congress is able to exert significant influence over the Bank via its funding arrangements, which in this case revolved around discontent over the Bank’s EWI. Frank and his supporters were able to exert direct influence at the World Bank, thus following through with the issues initially raised by trade union groups.

In regard to other nation-states supportive of CLS, European governments (another large source of Bank funding) have played an important role in having the Bank follow through with its publically stated commitments concerning workers’ rights. The IFC’s implementation of the CLS into its Policy and Performance Standards only proceeded due to the development ministries of European members pointing out the initial omission of CLS from the first draft of this document (Bavkis and McCoy 2008: 6). In supporting the Bank’s relationship with trade unions, European nations have also played a facilitative role. For example, the German, Nordic and UK governments are most frequently invited to chair meetings involving ITUC and the Bank (Interview, World Bank Official, June 2011). These particular Bank members are very supportive of CLS and have worked to promote dialogue between trade unions and the Bank, primarily because they are influenced by their own national politics and trade union representatives (Interview, World Bank Official, June 2011).

The Financial Crisis as a Political Opportunity

The Financial Crisis that emerged in 2008 served as an important political opportunity for trade unions to demonstrate the importance of labour regulation. The crisis damaged the neoliberal view that flexibility and minimal regulation are preferable economic policy settings for promoting development. During the crisis, the US unemployment rate was similar to that within most European nations, yet each had enacted a different policy approach to labour market regulation: the European policy settings reflected a regulatory approach whilst the US settings were more flexible. With the emergence of the Financial Crisis, conflicting evidence regarding the best approach for stabilising economies and employment began to emerge, and this put flexible approaches that underpin the US “employment miracle” into question (Kang 2009: 496). According to one commentator, the series of events surrounding the Financial Crisis has “turned the case for the US model almost entirely on its head” (Norris, 2009), thus discrediting neoliberal approaches.

The Financial Crisis and the broader political debate about the merits of regulatory versus flexible approaches had a major impact on the regulation versus flexibility debate inside the Bank:

[...] the crisis was so deep that countries that were more orthodox in terms of speaking of government spending, program stimulus packages, and short term job
creation programs were supportive in the Bank and I think the Bank had to go along with that. I think those forces in the Bank who support more government intervention you know they sort of had their heyday during that period and I think the trade unions recognised that (Interview, World Bank Official, June 2011).

Indeed, Kang goes so far as to state that the crisis saw the Bank suffer a ‘crisis of legitimacy’ due to its promotion of labour flexibility. For trade unions, the Financial Crisis presented an opportunity to promote labour regulation to a far more receptive Bank audience and consolidate the progress made at the institution since the initiation of the structured dialogue between the unions and IFIs. As reported by one ITUC official, the Financial Crisis gave the Bank an excuse to change its discourse on Doing Business as well as a good reason to question the flexibility approach; ITUC thus views the crisis as an “accelerating factor” (Interview, June 2011).

CONCLUSION AND AVENUES FOR A CLS/WORLD BANK RESEARCH AGENDA

Whilst some have argued that the changes at the World Bank in regard to CLS are mostly rhetorical (Kang 2009), this paper contends that they are nevertheless important. Specifically, the Bank’s evolving approach signifies the initiation of a move away from its ‘one-size-fits-all’ flexibility approach to a middle ground position recognising the relevance of the ILO’s CLS. As the Doing Business Employing Workers Consultative Group (2011) has stated, the shift at the World Bank in this area is focused on finding the right balance between measuring regulation and flexibility rather than abandoning flexibility altogether. As such, the significance lies in the Bank’s recognition that its approach has been far too one-sided by failing to take into account the benefits of labour standards and labour regulation. This is however a position that the Bank it still in the midst of negotiating. Assertions that the Bank’s evolving stance on CLS and the EWI does not challenge the hegemony of the neoliberal approach to labour standards (Kang 2009: 486) set the bar for assessing change too high. Whilst the Bank has indeed been slow to implement and enforce its stated support for CLS, progress has been made in regard to the World Bank’s public declarations of support for CLS. Public proclamations by target actors about appropriate standards can be significant as they allow critics (in this case trade unions) to use the Bank’s own stated standards as a source of pressure for more substantive change by pointing out differences between rhetoric and practice (Risse, Ropp and Sikkink 1999). However, one concern held by CLS advocates is that the Bank’s potential future adoption of a ‘country systems’ approach to procurement (whereby countries receiving World Bank funding would use their own national procurement systems and hence their own labour regulations) may undermine the Bank’s progress on CLS.

The World Bank’s institutional structure moreover presents a barrier to quick implementation of the CLS, thus helping explain the slow pace of change. The Bank is a large, complex, and very decentralised organisation, with a diverse staff including economists from different schools of thought. As one Bank representative commented,

[T]here’s enough room in the bureaucracy and the policies for people to interpret things very differently. The country program can look a lot different in say Mali than it can in Rwanda based on the personality of the country director, based on the country contacts and then differences between the IMF and the World Bank [...] the Bank is a lot less monolithic than it looks from the outside (Interview, June 2011).

In regard to Bank field offices, an ITUC representative confirmed this view, stating that “the
country directors have enormous amount of power and scope to apply or ignore different World Bank policies” (Interview, June, 2011). Despite these institutional barriers to change, the removal of the EWI from Doing Business 2011, the BetterWork joint initiative of the IFC and ILO, the establishment of the Doing Business Employing Workers Consultative Group, and the investigation of a WPI should be considered important steps down the path of acceptance, if not implementation, of a new (and still evolving) approach to CLS at the World Bank.

REFERENCES

IFC, (2006), Policy Performance Standards on Social and Environmental Sustainability, Washington, D. C.
IFC (2007), Banking on Sustainability: Financing Environmental and Social Opportunities in Emerging Markets, Washington, D.C.


Murphy, H. (2010), The making of international trade policy: NGOs, agenda-setting and the WTO, Cheltenham: Edward Elgar.


