The IFIs' Use of *Doing Business* to Eliminate Workers' Protection: Analysis of *Doing Business 2008* and new country evidence

ITUC/Global Unions[1] – Washington Office

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[1] The Global Unions group is made up of the International Trade Union Confederation (ITUC), which has 168 million members in 153 countries; the Global Union Federations (GUFs), which represent their respective sectors at the international trade union level (BWI, EI, ICEM, IFJ, IMF, ITF, ITGLWF, IUF, PSI and UNI); and the Trade Union Advisory Committee (TUAC) to the OECD. The ITUC was created 1 November 2006 through the unification of the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labour (WCL) and several previously unaffiliated national trade union organizations.

Executive Summary

Doing Business, the World Bank's highest-circulation annual publication, hails the former Soviet republic of Georgia in its 2008 edition for having "some of the most flexible labor regulations in the world", naming it one of two countries in the world where "workers … have the best protection". Georgia's flexible labour code, which was introduced in 2006, has been criticized by the International Labour Organization for granting employers the unlimited right to dismiss workers without cause and for imposing severe restrictions on trade union action and workers' right to bargain collectively. Despite its adoption, which should have stimulated the creation of more and better jobs according to *Doing Business,* the most recent data show that poverty in Georgia has increased from 27.2 to 31.0 per cent while unemployment has increased from 12.6 to 13.9 per cent as compared to levels of two years earlier.

The case of Georgia calls into question not only *Doing Business*'s peculiar judgement that governments which contravene internationally-recognized workers' rights should be lauded for providing "the best protection" in the world, but also the assertion that labour market deregulation automatically spurs economic growth and employment. In the four years since the first edition of *Doing Business*, the World Bank has modified the criteria in its "Employing Workers" index slightly, but continues to use indicators which reward countries for removing limits on work time, reducing minimum wages, abolishing workers' recourse against unjust dismissal, and eliminating requirement of advance notice for mass dismissals.

Under *Doing Business*'s ranking, Afghanistan, Georgia, Haiti, Mongolia and Papua New Guinea earn better marks system for "Employing Workers", because of their deregulated labour markets, than do prosperous economies with low unemployment and high productivity such as Finland, Korea, Netherlands, Sweden and Taiwan. These examples contradict *Doing Business*'s claim that the policies enumerated in the "Employing Workers" section are a recipe for high-quality job creation. The World Bank has never produced evidence to show that higher levels of "rigidity" as measured by the *Doing Business* "Employing Workers" indicators are a major obstacle to job creation. *Doing Business* cites one published study to support its methodology but misstates one of its key conclusions, and otherwise resorts to dubious anecdotal evidence, sometimes contradicted by other World Bank reports, to back up its claims about the need to eliminate workers' protection regulations.

This paper condemns *Doing Business*'s underlying assumption that labour regulations have costs but not benefits, and for ignoring the economic and social rationale that leads countries to limit working hours or set minimum wages. By discouraging countries from maintaining anything above the bare minimum level of labour market regulation, *Doing Business* actually undermines development goals promoted by the World Bank and other international organizations. For example, if most sub-Saharan African countries were to adhere to the *Doing Business* criterion that minimum wage levels not exceed more than 25 percent of the value added per worker, they would be forced to set minimum wages at less than a dollar per day—the threshold for extreme poverty. South Africa, which has attempted to remedy long-standing discriminatory practices in the labour market with affirmative action rules on lay-offs, earns a poor score in the "Employing Workers" index because *Doing Business* gives bad marks to countries that have any kind of priority rules for dismissals. *Doing Business* furthermore penalizes countries that adopt employer-funded publicly administered social protection programmes.

While *Doing Business 2008* implies that it supports the ILO's core labour standards, a number of countries known for repeated violations of workers' rights once again scored well in this year's edition. Colombia, where dozens of murders of trade unionists occur every year and are rarely punished; China, where workers are banned from joining any union but the official state-controlled organization; and Saudi Arabia, where women are banned from numerous professions and trade unions are entirely prohibited, all rank better than do most countries in Western Europe.

Although World Bank officials have steadfastly refused to admit that *Doing Business* is intended to drive labour market deregulation in developing countries, *Doing Business* has repeatedly insinuated otherwise. The first edition of the report, *Doing Business in 2004*, spoke of the positive results of countries that had undergone the "deregulation experience", by which it meant "a general reform toward reduction of the scope of employment regulation". A more recent World Bank press release said: "The annual *Doing Business* updates have already had an impact. The analysis has inspired and informed at least 48 reforms around the world. The lesson – what gets measured gets done."

The labour market deregulation ideology of *Doing Business* has spread into the World Bank and International Monetary Fund's policy advice and lending conditions for countries. *Doing Business* is frequently cited in IMF Article IV Consultation reports, as well as in World Bank Country Assistance or Country Partnership Strategies. This paper documents 16 recent cases of World Bank and IMF country strategies that use *Doing Business* indicators and rankings to pressure countries to deregulate their labour markets. The World Bank also uses *Doing Business* labour market rigidity scores as a component of its Country Policy and Institutional Assessment (CPIA), which determines how much aid to allot to poor countries, and has incorporated *Doing Business* into its overall labour markets strategy. Far from being a mere index of perceptions about countries' labour market regulations, as its authors have claimed, *Doing Business* has become a dangerous tool used to encourage countries to remove essential workers' protection.

Introduction

1. *Doing Business 2008*, published by the World Bank in September 2007, praises the former Soviet republic of Georgia as one of two countries in the world where "workers … have the best protection".[2] The previous year's edition of *Doing Business* had already declared Georgia to be the world's "top performer" in the area of labour law reform because "Georgia's new labor regulations help workers move to better jobs".[3]

2. In contrast, the latest economic report prepared by the International Monetary Fund on Georgia, a low-income country that depends on concessionary loans from the Fund, does not bear out the image of a workers' paradise painted by *Doing Business*. The August 2007 IMF report states that an "area of disappointment has been in reducing poverty, with poverty rates virtually unchanged". The IMF report actually contains statistics showing that Georgia's poverty rate is significantly higher in 2006, at 31.0 per cent, than where it was two years earlier, 27.2 per cent. Unemployment has also increased, according to the IMF, having grown from 12.6 per cent in 2004 to 13.9 per cent in 2006.[4]

3. Why then, does the World Bank's *Doing Business 2008* designate Georgia to be a labour utopia? Because, according to the report, "Georgia has some of the most flexible labor regulations in the world". These regulations, which were included in a labour law adopted in May 2006, include the following features:

- The new labour law allows any worker to be dismissed without valid reason.
- The new law defines a collective agreement as any contract between an employer and two or more employees, effectively marginalizing trade unions' position as workplace bargaining agents since at least 100 people are needed to form a trade union.
- The new law gives employers the right to unilaterally establish the rules concerning a number of working conditions which previously were subject to collective bargaining.
- Any strike, regardless of the nature of the work or sector of activity, cannot exceed 90 days.
- Additionally, Georgia's Organic Law on the Suspension and Prohibition of Activities of Voluntary Associations allows for the prohibition of trade unions on the grounds of stirring up social conflict.
- There have been reports of threats and intimidation for trade union activity from workers in local government, education, mining, pipelines, port facilities and other sectors, but no action has been taken by the ministry of labour.

[2] World Bank, *Doing Business 2008* (Washington, 2007), p. 19
[3] World Bank, *Doing Business 2007* (Washington, 2006), p. 1 & 19
[4] IMF, *Georgia: Sixth Review Under the Three-Year Arrangement Under the PRGF* (Washington, August 2007), p. 13 & 15

- The Georgian government has refused to reply to numerous requests by the International Labour Organization that it amend the 2006 labour law, which the ILO considers not to be in conformity with the core labour standards.[5]

Doing Business 2008 does commend Georgia for having ratified all of the ILO's core labour standards conventions. However, ratification does not mean observance and application, a distinction that the World Bank could have learned if it had bothered to consult the ILO, or Georgian trade unions and employers, about the labour law situation in the country.

4. Since the first edition of *Doing Business* was issued by the World Bank in October 2003, Georgia is only one of dozens of developing country where *Doing Business* has been used to recommend that governments carry out far-reaching labour market deregulation and applauded those that did so – in flagrant disregard of the impact on poverty levels, employment, wages, working conditions and respect for workers' fundamental rights. The World Bank has assiduously promoted *Doing Business*. It has become the Bank's highest-circulation publication, has been incorporated into the World Bank's overall labour markets strategy, and has been used by staff of both international financial institutions (IFIs), the IMF and World Bank, to recommend specific measures for eliminating workers' protection.

5. In several countries, recommendations for dismantling workers' protection based on *Doing Business* indicators have been made into IMF and World Bank loan conditions. In one such country, Nepal, the World Bank's country director wrote a letter in January 2006 stating that the Bank could cut off budget support to the king of Nepal, who at the time had seized absolute power, unless he rapidly decreed labour market deregulation, despite the fact that the "tripartite constituents" (elected government, employers, trade unions) were opposed. The king did as the World Bank director instructed but, unfortunately for the Bank, a popular uprising led to the king losing his dictatorial powers six weeks later and the new democratic government quickly annulled the king's decree.[6]

6. This report presents sixteen country cases of the use *Doing Business* by the IFIs to eliminate workers' protection. They add to seven other country cases documented in an earlier report, which was sent to IFI officials. The IFIs never responded to the earlier report, but the World Bank has continued to assert that reforms based on the *Doing Business* indicators, which purport to identify labour regulations that are obstacles to investment, will result in higher economic growth and employment. As is shown in this report, *Doing Business* makes assertions about a causal relationship between its "Employing Workers" indicators and employment growth that has never been borne out by empirical evidence. *Doing Business* has ignored important research disproving the claimed causal link and has misstated the conclusions of other research which it has invoked in support of its methodology. Even anecdotal cases such as Colombia, Georgia and Macedonia, presented as success stories of labour reform in past and present editions

[5] ITUC, *2007 Annual Survey of Violation of Trade Union Rights* (Brussels, September 2007)
[6] ICFTU, *How the World Bank and IMF Use the Doing Business Report to Promote Labour Market Deregulation in Developing Countries* (Washington, 2006)

of *Doing Business*, fail to substantiate the claim that elimination of labour regulations inevitably leads to the creation of more and better jobs.

Four years of *Doing Business*

7. *Doing Business*, an annual World Bank publication produced since 2003 by the Bank's Private Sector Development department, claims to help countries achieve higher growth by identifying obstacles to private-sector investment, such as delays for issuing business permits or laxity in enforcing contracts. Countries are told that they can improve their growth rate by reducing or eliminating these obstacles. Labour market regulations have always been an important target of the publication, starting with the first edition when "Hiring and Firing Workers" was included as one of the five original themes of *Doing Business in 2004*. The first edition advised countries that they had much to learn from countries that had undergone the "deregulation experience" in the area of labour legislation. Countries with dubious records in respecting fundamental workers' rights, such as Colombia, have been singled out for praise for having undertaken labour market deregulation.

8. While some other aspects of *Doing Business* have also been controversial[7], the international trade union movement has focused its analyses and criticisms on those aspects of the publication that concern labour, most particularly the section entitled "Hiring and Firing Workers", which was renamed "Employing Workers" in the fourth edition. In October 2003, a few weeks after the launch of *Doing Business in 2004*, the general secretary of the ITUC's predecessor, the ICFTU, wrote to the president of the World Bank and called attention to the fact that the Bank's publication was promoting measures to eliminate labour regulations "without specifying that they can contribute to reducing the living standards of workers and act against poverty-reduction goals".[8] The ICFTU pointed out that the message of *Doing Business* that labour market regulations are nothing but an impediment to investment appeared to contradict other recent Bank reports supporting improved social protection, core labour standards and negotiating with unions on changes that affect workers. The World Bank's vice-president for Private Sector Development responded to the letter and defended *Doing Business*, denying that any change was needed in its approach to labour regulations and stating that the objective of *Doing Business* was to reduce poverty by "documenting successful reforms to improve growth opportunities for small and medium-size firms and to enhance entrepreneurship".[9]

9. No evidence has ever been produced by the World Bank to show that poverty reduction or enhancement of entrepreneurship requires establishing a 66 hour workweek, bringing minimum wages to below 25 per cent of value added per worker, abolishing all forms of recourse against unjust dismissal, and eliminating any advance notice

[7] In particular, *Doing Business* has been accused of being biased against non-Anglo-Saxon legal systems, and notably those based on European civil law. See for example: Association Henri Capitant des amis de la culture juridique française, *Les droits de tradition civiliste en question: À propos des rapports Doing Business de la Banque mondiale*, Société de législation comparée (Paris, 2006).
[8] Letter, Guy Ryder (ICFTU) to James Wolfensohn (World Bank), 21 October 2003
[9] Letter, Michael Klein (World Bank) to Guy Ryder (ICFTU), 7 November 2003

requirements for mass employment terminations. However these were all requirements established by *Doing Business* for countries that wished to attain the best ease-of-doing-business designation. *Doing Business* grades countries according to whether regulations such as these exist in the country. It calculates index scores and establishes rankings of countries on the basis of the indicators. Some of the precise criteria for calculating the indicators, such as the 66-hour workweek[10], were later modified, but the fundamental approach remains the same: best performer designations are given to countries with the lowest level of labour regulations.

10. The authors of *Doing Business* have claimed that they agree with the International Labour Organization's core labour standards (CLS), which are based on eight of the ILO's 188 conventions adopted since 1919.[11] These CLS conventions cover freedom of association and the right to collective bargaining (ILO Conventions 87 and 98); the elimination of discrimination in respect of employment and occupation (Conventions 100 and 111); the elimination of all forms of forced or compulsory labour (Conventions 29 and 105); and the effective abolition of child labour, including its worst forms (Conventions 138 and 182). Despite lip service acknowledging the relevant conventions, the *Doing Business* indicators do not take account of whether countries actually observe CLS. In fact, *Doing Business* has given some of its best scores and rankings in the labour category to countries that routinely violate CLS.

11. For two years in a row, in its 2006 and 2007 editions, *Doing Business* granted the global best performer designation for their labour regulations to two small Pacific island states having hardly any labour regulations of any kind and that were among the handful of countries not members of the ILO, which has 181 member countries. As non-ILO members, these two countries were not required to abide by the CLS. In the 2008 edition, recurrent violators of fundamental workers' rights, including Belarus, China, Colombia, El Salvador, Eritrea, Saudi Arabia, Swaziland and Uzbekistan, all received a better ranking for "Employing Workers" than most countries of Western Europe. The *Doing Business* list of relatively good performers for employing workers thus includes a country that keeps wages artificially low by imprisoning workers who try to organize outside of the state-controlled union – China; a country that holds the world record for the number of trade unionists murdered each year, almost all in total impunity – Colombia[12]; and a country which outlaws trade unions entirely and bans women from several categories of work – Saudi Arabia.

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[10] *Doing Business 2007* dropped the 66-hour workweek in favour of the following rule: the minimum workweek must be at least 5.5 days and, for at least 2 months per year, no less than 50 hours; weekend work must be unrestricted at all times.

[11] Recent editions of *Doing Business* mention that the CLS exist, but do not express explicit support for them. However, *Doing Business* implies that any labour standards other than the CLS generally play a negative role in developing countries: "Beyond these regulations and principles [contained in the CLS], … most developing countries err on the side of excessive rigidity" (World Bank, *Doing Business 2007*, (Washington, 2006), p. 18).

[12] Praised by the first and second editions of *Doing Business* because the government had reduced the minimum wage and made it easier for workers to get fired, Colombia has also won the dubious distinction of being the country where workers' representatives most often get fired on. More trade unionists have been murdered in Colombia than in any other country since the early 1990s. The ITUC has documented 1165 cases of Colombian trade unionists assassinated since between 1994 and 2006; only 14 perpetrators

Bogus economic justifications

12. The basic methodology of the "Employing Workers" section of *Doing Business* is as follows:

a) Labour-related regulations or requirements are assumed to have costs but no benefits.
b) Indicators for different types of regulation are calculated for each country on the basis of the existence of certain legal labour requirements or on their estimated cost to a typical business.[13]
c) Average "rigidity of employment" indices are calculated on the basis of the existence or the cost of the requirements for the typical firm in each country surveyed.
d) Countries are ranked according to their "rigidity of employment" indices, with better rankings given to countries having the lowest indices, such that countries having no labour regulation of any sort get the best ranking.
e) Countries having lower labour market indicators are assumed to be more business-friendly and therefore more successful in attracting private investment, such that they will have higher rates of growth and job creation.

13. It is to be noted that the whole edifice of *Doing Business* is based on a series of assumptions: that labour regulations have costs and no benefits; that certain rules should be taken into consideration but other regulations or common practices not; and that a lower level of regulation always results in more investment and higher growth. Evidence to back up these assumptions in *Doing Business* ranges from inexistent to anecdotal and from highly selective to erroneous. Firstly no explanation is given as to why it is legitimate to assume that all labour regulations have costs but no benefits. Such an assumption ignores the rationale, economic as well as social, that led to the introduction of limits on hours of work (long work hours led to decreased productivity and higher accident rates); for obliging employers to provide advance notice and to contribute to the cost of income maintenance of dismissed workers; for establishing minimum wages; and for obliging employers to contribute to the cost of the care of injured workers, their overall health and their retirement income.

14. As explained in more detail in paragraph 25 below, *Doing Business* introduces a bias against labour regulations in developing countries, which is where the World Bank and IMF have their greatest influence, by excluding from the calculations several types of workers' protection in industrialized countries that produce actual benefits for many workers, but do not constitute statutory obligations. These may derive from the influence of trade unions, which are generally stronger in industrialized countries, but often apply to many non-unionized workers not covered by collective agreements as well. They

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were ever tried and sentenced for any of these murders. See ITUC, *Annual Survey of Violation of Trade Union Rights* (Brussels, 2007).

[13] This paper does not deal with the formulas used to calculate the indicators. The aggregation and weighting system and the coding method, for which no justifications are provided in *Doing Business*, present major methodological problems, as shown in: Berg and Cazes, *The Doing Business Indicators: Measurement issues and political implications* (ILO, Geneva, 2007), p. 9-13

include, for example, advance notice and severance benefits for dismissal, recourse against dismissals considered unjust, and employer-provided pensions and health care benefits.

15. The other basic assumption of *Doing Business*'s section on "Employing Workers" is that labour regulations prevent employment creation in the formal sector. The rationale was expressed by *Doing Business in 2006*, which carried the subtitle "*Creating Jobs": "Inflexible labour markets stifle new job creation and push workers into the informal sector. …Most developing countries err on the side of excessive rigidity, to the detriment of businesses and workers alike. …Reforms of employment regulation reduce business costs… The result is a higher employment rate".[14] Specific measures that countries should undertake were also presented in the report.

16. However *Doing Business in 2006: Creating Jobs* cites only two studies (one of which, by a World Bank author, was "forthcoming" and unavailable when cited) to support the contention in its chapter on "Hiring and Firing Workers" that reduced labour regulation automatically increases employment.[15] Strangely, for a publication that emphasizes developing countries' need to reform, both studies only arrived at conclusions for OECD countries concerning the supposedly positive impact of looser labour laws on employment levels. Equally strangely, the World Bank must have been aware when it published *Doing Business in 2006: Creating Jobs* that the OECD was at that point completing a major reassessment of its decade-old *Jobs Study*, a reassessment which cast substantial doubt on the idea that labour market deregulation automatically enhances employment creation.

17. The OECD's *Policy Lessons from Reassessing the OECD Jobs Strategy* concluded: "there is no single combination of policies and institutions to achieve and maintain good labour market performance".[16] The OECD found that the "successful performers" in terms of employment growth included both countries with light employment protection legislation (EPL) and low welfare benefits, and others with more restrictive EPL, generous welfare benefits and coordinated collective bargaining. But whereas the former group of countries (which includes the US) is characterized by "relatively wide income disparities", the latter (which includes the Nordic countries) "have achieved high employment and low income disparity".[17] Another OECD publication examined the determinants of structural unemployment in OECD countries and found that "the impact of EPL and union density are statistically insignificant".[18] Subsequent editions of *Doing Business* quietly dropped the reference to the two studies used in *Doing Business in 2006: Creating Jobs* to assert that labour market regulations were a statistically significant cause of unemployment in OECD countries. However, they never corrected the original assertion nor mentioned that the OECD itself had determined the claim to be unjustified.

[14] World Bank, *Doing Business in 2006* (Washington, 2005), p. 21 & 26
[15] ibid, footnote 9, p. 26
[16] OECD, *Boosting Jobs and Income – Policy Lessons from Reassessing the OECD Jobs Strategy* (Paris, 2006) p. 18
[17] ibid, p. 19
[18] OECD, *Employment Outlook 2006* (Paris, 2006), p. 212

18. *Doing Business 2007* restated the assertion that labour market regulations drive workers into the informal economy – "the less flexible the regulations, the more businesses hire workers informally"[19] – but this time cited only one article, by Botero and others, to back up this claim.[20] Moreover, all editions of *Doing Business* have stated that the methodology of the labour indicators was developed in the Botero study and adopted in *Doing Business* "with minor changes".[21] In reality, the Botero article provides no support for the key assumption of *Doing Business* that labour market regulations and requirements lead businesses to hire workers in the informal economy and that the regulations are therefore an impediment to employment creation in the formal economy. Contrary to the assertion repeatedly made in various editions of *Doing Business*, the Botero study found that labour market regulations are not significantly correlated either with the size of the informal economy or with employment levels in the informal economy. The "minor changes" *Doing Business* made in adopting the methodology of the Botero study apparently included altering one of its important conclusions by assuming a causal relation that the study was unable to substantiate.

19. While *Doing Business 2008* repeats the claim that the methodology of the "Employing Workers" indicators is based on the Botero paper "with minor changes", it no longer cites any studies in support of the claimed broad link between employment growth and deregulation. It does cite two papers in support of a narrower claim linking growth of exporting businesses and flexible labour regulations, one prepared by the World Bank and the other by the IMF.[22] However, neither of these papers had been posted on the two institutions' respective web sites when *Doing Business 2008* was published in September 2007; the papers could therefore not be verified. In light of the 2006 external assessment of the World Bank's research activities, which cited several examples of an unfortunate common practice at the Bank where "research was used to proselytize on behalf of Bank policy, often without taking a balanced view of the evidence" and research that did not support Bank policy was ignored, one should take such in-house references with scepticism, especially when the sources cannot be consulted.[23]

20. *Doing Business* has also resorted to anecdotal evidence by citing specific countries as proof that the labour market deregulation measures the Bank puts forward will lead to increased employment creation. Even other World Bank publications sometimes find these cases to be unconvincing. For example, *Doing Business in 2005* lauded Colombia as one of the two "world's most successful investment climate reformers over the past year … [for] increasing the flexibility of labor laws".[24] It predicted that Colombia's "bold" labour reforms would produce "the largest payoffs … in reducing

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[19] World Bank, *Doing Business 2007* (Washington, 2006), p. 18
[20] Botero, Juan et al., "The Regulation of Labor", *Quarterly Journal of Economics* (June, 2004)
[21] World Bank, *Doing Business 2008* (Washington, 2007), p. 73
[22] ibid., p. 20 & 24, footnotes 4 and 6
[23] Banerjee, Abhijit, et al, *An Evaluation of World Bank Research, 1998-2005* (2006), cited in "World Bank 'uses doubtful evidence to push policies'", *Financial Times*, 22 December 2006
[24] World Bank, "Doing Business 2005: Poor Nations Struggle to Reduce Red Tape for Business, Miss Large Growth Opportunities", World Bank News Release No:2005/69/S, 8 September 2004

unemployment"[25]. However a year later, the Bank released a special study on Colombia's labour market reform which determined that the impact "seems to have been modest" in terms of employment creation.[26] The report's conclusion was that "the impact of the reform *may* have been positive. However, making this link is not an easy task".[27] That hardly sounds like the "large payoff" from Colombia's "successful" labour market reform confidently predicted by the *Doing Business* experts.

21. For most people who have an elementary knowledge of labour market issues, a simple perusal of the *Doing Business* rankings should convince them of the implausibility of the claimed identification of a link between deregulated labour markets as measured by *Doing Business* and improved economic performance and employment creation. Because of their deregulated labour markets, Afghanistan, Armenia, Georgia, Haiti, Mongolia, Papua New Guinea, Solomon Islands and Yemen all outrank such prosperous, high productivity and low unemployment countries and regions as Finland, Korea, Luxembourg, Netherlands, Norway, Slovenia, Sweden and Taiwan in their 2008 *Doing Business* "Employing Workers" scores. Few analysts other than the *Doing Business* authors and, presumably, those in the World Bank and IMF who use *Doing Business* to design labour market reform proposals, would assert that the first group of countries has found the successful recipe for high-quality job creation that the latter group should emulate.

***Doing Business*: World Bank's main template for labour market reform**

22. What has been particularly disturbing for national trade union organizations affiliated to the ITUC (and its predecessor organizations) is the fact that *Doing Business* has become the most important template used by the World Bank and the IMF to promote labour market reform in developing and transition countries. Other World Bank publications and reports have occasionally put forward more balanced views on labour standards, showing that they have economic and social benefits and not only costs, but these have the status of discussion documents or analyses that rarely serve to design specific reforms.[28] Since 2006, the International Finance Corporation (IFC), which is a member of the World Bank Group, has made it an obligation through its Social and Environmental Performance Standards that all IFC borrowers must abide by specific requirements based on the CLS, and the IFC has prepared "Good Practice Notes" to support its performance standards. However the IFC's clients are private companies, not governments, and neither the performance standards nor the good practice notes are addressed to governments. Claims by some World Bank officials that the approach of *Doing Business*, which examines labour regulations exclusively as to whether they help

[25] World Bank, *Doing Business in 2005* (World Bank, 2004) p. 30
[26] World Bank, *Colombia: Country Economic Memorandum* (Washington, 2005), p. 90
[27] World Bank, *Colombia: Labor Market Adjustment, Reform and Productivity* (Washington, 2005), p. 33
[28] An example of a more balanced analysis recognizing that labour market regulations can play a positive role is to be found in the World Bank's *World Development Report 2006: Equity and Development* (Washington, 2005), which states that "Labor markets are generally not competitive … [and] can lead to unfair and inefficient outcomes when the bargaining position of workers is weak…. Public intervention can improve market outcomes and lead to significant equity gains: more equal opportunities for workers, better working conditions, and less discrimination." (p. 186).

investors or not, are “offset” by other Bank reports, ignore the different manner in which these reports are used in Bank operations relating to client-country governments.

23. Starting in 2003, World Bank country offices began using *Doing Business* to encourage governments to do away with labour market “rigidities” by calling attention to the country’s “Hiring and Firing Workers” indicators (called “”Employing Workers” indicators starting with *Doing Business 2007*) in comparison with other countries. They frequently did so during press conferences or public meetings and began including recommendations to reduce labour market rigidities in country reports, such as County Economic Memorandums (CEMs), Country Assistance Strategies (CAS) and Country Partnership Strategies (CPS). Countries were told that, if their labour market rigidity indices were higher than regional averages, they should work to get them lower than the regional average. In countries already below the regional average, it was more typical for the Bank’s country reports to introduce comparisons with select countries in other regions of the world with particularly low indicators. Recommendations to deregulate labour markets on the basis of *Doing Business* scores have appeared in a growing number of World Bank CEMs, CAS and CPS, and also in IMF Article IV Consultation reports. In some countries, the recommendations have been made into World Bank and IMF loan conditions. Several country cases showing this use of the *Doing Business* have been documented in reports produced by the ICFTU and ITUC, including in this report further below.

24. After writing to the World Bank president in October 2003 and receiving an unsatisfactory response, the ITUC’s predecessors and other Global Unions partner organizations raised the problems posed by the *Doing Business* labour market rigidity scores and their use to pressure countries to eliminate workers’ protection in numerous written and verbal communications made to Bank staff and Executive Directors. These have included eight twice-yearly statements addressed to the Bank and IMF at the occasion of their annual and spring meetings and two longer analyses. All of these documents pointed out the methodological flaws of *Doing Business*’s labour market indicators and gave examples of the damages its recommendations had caused. In addition, a number of national affiliates of the ITUC have complained to their governments about these problems. Several governments have informed the unions that they share concerns about the *Doing Business* labour indicators and the way they are used.

25. Among the problems raised by the trade union movement about the *Doing Business* labour market rigidity scores and rankings are the following:

- The indicators take no account of the general situation of workers’ rights, industrial relations or social protection that exists in the county. *Doing Business* advises countries that national legislation should not require any advance notice for dismissals, individual or collective; any severance pay of more than eight weeks’ wages; or any recourse against unjust dismissal. The limitation of severance pay to a short period obviously poses much less of a problem in countries that provide unemployment benefits to maintain part of the income of dismissed workers for a certain period (all industrialized countries) than those that do not (all but a few developing countries). Similarly, the elimination of any statutory recourse to contest dismissals has a greater impact when no other recourse exists (as in most developing countries) than when workers have other forms of protection, such as a strong union movement with collective bargaining agreements that provide a recourse to many workers (several industrialized countries) or strong anti-discrimination laws that permit workers to sue employers for various types of unjust dismissal (for example, in the United States).

- The comparisons *Doing Business* carries out on labour regulations between countries are made for a full-time male employee who has worked in the same company for 20 years and is not unionized, unless membership is obligatory. Employees having twenty years seniority are highly atypical in developing countries, but less so in industrialized countries. *Doing Business* is therefore basing its indices and rankings on conditions that apply to a tiny proportion of the labour force in developing countries. Conditions that may appear generous on paper, for example high severance pay granted to employees who have extended seniority, in reality may be largely theoretical if hardly anyone can benefit from them. In industrialized countries, even those where less than half of workers are covered by collective agreements, the impact of unions tends to be quite broad, and benefits and protections gained by unionized workers also apply to many who are not unionized or covered by collective agreements. This happens less frequently in developing countries. By ignoring those kinds of protections, the *Doing Business* indices understate the level of real protection enjoyed by many industrialized country workers compared to those from developing countries.

- *Doing Business* penalizes countries that have a statutory minimum wage, unless it is less than 25 per cent of value added per worker. This level represents less than $30 per month, i.e. less than $1 a day, in most Sub-Saharan African countries. The World Bank has defined $1 a day as the extreme poverty threshold and has endorsed Millennium Development Goal Number One, which is to eliminate extreme poverty. By giving worse rankings to countries which require that wages exceed extreme-poverty levels, *Doing Business* is working at counter-purposes with the World Bank's stated objectives, and in this case, with an objective that the World Bank declared to be its overarching goal in 1999.

- *Doing Business* opposes any advance notice for dismissal requirements or obligatory severance pay exceeding eight weeks, even though many World Bank loans for restructuring of services or state-owned enterprises have required that compensation be provided to workers who lose their jobs. *Doing Business* is therefore advising countries that they should not require the application of the kinds of measures for which the World Bank provides financial assistance.

- Since 2002, the World Bank has supported the promotion of the ILO's core labour standards, one of which requires that countries eliminate discrimination in respect of employment and occupation. Some countries with long-standing discriminatory practices in the labour market have put in place affirmative action rules, for example concerning lay-offs. South Africa is an example of such a country. *Doing Business* gives bad marks and worse rankings to countries that have any kind of priority rules for dismissals. Thus, countries that attempt to abide by ILO principles supported by the World Bank to combat discrimination in the labour market are penalized by *Doing Business*.

- *Doing Business* counts any obligatory employers' contributions to social security (old-age pensions, health care, maternity leave, workplace injury, etc.) as a negative and includes them under two categories: "Employing Workers" and "Paying Taxes". It gives worse rankings to countries that have higher levels of social security contributions as a proportion of profit. Social security contributions paid by workers, through income taxes or through consumption taxes are not counted, nor does *Doing Business* count employers' contributions made for health care coverage or old-age pensions that are common in the United States and some other industrialized countries but not obligatory by law. *Doing Business* shows an obvious bias against employer-funded publicly administered social protection and, once again, against developing countries. Shifting the burden of funding social protection away from employers and onto the general income tax or value added tax systems is not a viable option for many low-income countries where the tax regime either does not exist or may be difficult to expand so as to generate sufficient revenue.

- Starting with the first edition of *Doing Business* and up to the present, the section on labour has used the terms "employment regulations", "labor laws", "labor regulations" and "worker protections" synonymously, and the strong message of *Doing Business* is that these laws or regulations must be made more flexible or eliminated. *Doing Business* bases its indices and rankings on specified types of regulations, including minimum wages, hours of work, hiring rules and dismissal rules. However, when countries are told by *Doing Business* that the World Bank favours "making labor regulations more flexible", they may well infer that this should apply to all types of labour regulations institutions, including collective bargaining systems. As will be shown in some of the country cases, the IFIs sometimes use bad *Doing Business* scores as justification for pressuring countries to eliminate sector-level or national collective bargaining.[29]

[29] The fact that many World Bank reports recommend dismantling sector-level collective bargaining arrangements in favour of firm-level bargaining or individual contracts is likely to reinforce the impression that the World Bank sees collective bargaining as a mixed blessing. See for example: World Bank, *Enhancing Job Opportunities in Eastern Europe and the Former Soviet Union* (Washington, 2005), p. 47 & 49.

- The same *Doing Business* message about the need to do away with labour regulations can also be understood to apply to occupational health and safety rules. The Bank's last World Development Report that dealt extensively with labour issues actually called attention to the problem of weak enforcement of occupational health and safety regulations in low- and middle-income countries and supported stronger enforcement.[30] Support for stronger enforcement would be strictly off-message as far as *Doing Business* is concerned, so it is not surprising that it does not mention regulations for health and safety at work. However, the carelessness with which *Doing Business* throws around its call to do away with labour regulations can lead governments, or staff of the IFIs, to presume that the Bank believes occupational health and safety rules to be as much of a nuisance as any other labour regulation. The weaker presence of trade unions and collective bargaining that is likely to result from labour market deregulation will, in any case, contribute to weaker enforcement: "the role of labor unions in ensuring compliance with health and safety standards is often an important one".[31]

World Bank's refusal to recognize problems caused by *Doing Business*

26. In addition to informing the president of the World Bank in writing of the problems posed by the *Doing Business* labour market indicators, the ICFTU/Global Unions sent the Bank two detailed analyses laying out their objections.[32] Representatives of the World Bank responsible for *Doing Business*, including the vice-president for Private Sector Development and the lead author of the report, accepted to meet with representatives of international trade union organizations on three occasions (2004, 2005 and 2006) to discuss the publication. While acknowledging that *Doing Business* examined labour regulations exclusively as to their perceived negative role as impediments to investment and did not examine any positive role they might play, they denied that there were any problems with the overall approach.[33] They also claimed that *Doing Business* did not intend to indicate any kind of judgement as to what an appropriate level of regulation might be. They stated than an appropriate level might well be superior to zero, which is the score conferred on countries whose regulations are equal to or below the minimum criterion established in *Doing Business*, such as a minimum wage below 25 per cent of value added per worker or the absence of any advance notice rules for dismissal.

27. In 2005 the ICFTU informed Bank officials responsible for *Doing Business* that several World Bank country offices had established rankings of countries using the *Doing*

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[30] World Bank, *World Development Report 1995: Workers in an Integrating World* (Washington, 1995), p. 77-78

[31] ibid., p. 78

[32] ICFTU, *Comments by ICFTU/Global Unions on the World Bank's Doing Business in 2005: "Hiring and Firing Workers"* (Washington, 2005) and ICFTU, *How the World Bank and IMF Use the Doing Business Report to Promote Labour Market Deregulation in Developing Countries* (Washington, 2006)

[33] A leading argument used by the World Bank officials was the debatable assertion that, since it is the Bank's highest-circulation publication, *Doing Business*'s popularity somehow constitutes a validation of the methodology used.

Business labour market rigidity indices in which the best rankings were given to countries having the scores closest to zero, and that the Bank offices used these rankings to tell countries with higher indices that they should get rid of labour regulations so as to improve their ranking. The Bank's top officials responsible for *Doing Business* told the ICFTU that they did not support ranking countries on the basis of their *Doing Business* indices and, furthermore, that anyone who used the indicators to promote labour market deregulation was "misinterpreting" them.

28. The Bank evidently changed its mind about the appropriateness of ranking countries on the basis of their *Doing Business* indicators, since starting in 2006 the Bank published rankings of countries for each category. Countries with the lowest indicators, i.e. the least amount of labour regulations, were awarded the "Best Performer" status for that category. *Doing Business in 2006* granted the "Best Performer" trophy for its labour regulations to Palau, a Pacific island state of 20,000 inhabitants that is not an ILO member and has almost no labour regulation of any kind. In its 2007 edition, published in September 2006, *Doing Business* bestowed the top prize for its (lack of) labour rules to the Marshall Islands, another small Pacific island country that was not a member of the ILO at the time. By designating non-ILO member countries having virtually no workers' protection rules as global champions in the area of employment of workers, the message of *Doing Business* could not have been clearer: as far a labour laws are concerned, the best level of regulation is no regulation at all.

29. As for Bank officials' claim that those who used the *Doing Business* labour market indicators to pressure countries to deregulate their labour markets were "misinterpreting" the data, one can only presume that the *Doing Business* team has one message for those outside the institution who complain about flaws in *Doing Business* and another for Bank staff. Over the four years that *Doing Business* has been published, there has been a steady growth in the number of country reports prepared by the World Bank – notably County Assistance Strategies, Country Partnership Strategies and Country Economic Memorandums – that include policy recommendations based on *Doing Business* labour market indicators. The Bank's sister institution, the IMF, also uses the *Doing Business* labour indicators to make policy recommendations with growing frequency, often as part of the policy advice contained in Article IV Consultation reports. In several countries, the labour law reform proposals have been made into lending conditions of the IMF or World Bank.

30. In June 2006, the ICFTU documented seven country cases where the IFIs had made very specific labour market deregulation proposals on the basis of *Doing Business* scores, sometimes backed up by loan conditions. The present report documents sixteen additional cases of the World Bank and IMF using *Doing Business* labour indicators to push for labour market deregulation. Unless one is to surmise that hundreds of IFI staff members are systematically and deliberately "misinterpreting" the Bank's highest-circulation publication, it is not credible that the Bank never intended that *Doing Business* be used for that purpose, as those responsible for the publication have told trade union representatives. Their own written words say otherwise. The first edition of the report, *Doing Business in 2004*, spoke of the positive results of countries that had undergone the

"deregulation experience", by which it meant "a general reform toward reduction of the scope of employment regulation".[34] By the fourth edition, a World Bank press release quoted one of the authors of *Doing Business 2007* as boasting about how much the publication had contributed to reducing the burden on businesses: "The annual *Doing Business* updates have already had an impact. The analysis has inspired and informed at least 48 reforms around the world. The lesson – what gets measured gets done."[35]

31. The flawed labour market indicators of *Doing Business* are furthermore used as a determinant of low-income countries' overall access to World Bank funds from the International Development Association (IDA), the Bank's concessionary lending arm, through the Country Policy and Institutional Assessment (CPIA). Although the Bank has not been transparent in its process for determining country scores and no public justification of scores is given, it is clear from the Bank's *CPIA Assessment Questionnaire* that Bank staff have been instructed to use the rigidity of employment indices of *Doing Business* as "Guideposts" in two categories: "Business Regulatory Environment" and "Social Protection and Labor". Under the category of "Social Protection and Labor", good marks are supposed to be granted to countries that, according to the *CPIA Assessment Questionnaire*, meet the following criteria:

- "Social protection programs provide income support to poor and vulnerable groups"
- "Government has … passed legislation that conforms with core labor standards and is implementing these through its policies and programs"
- "Labor market regulations and active labor market policies promote broad access to employment …"
- "… Pension and savings programs provide affordable, adequate, sustainable and robust income security"[36]

32. The *Doing Business* labour market indicators actually do not measure any of these qualities; if anything they measure their absence. *Doing Business* does not take account of observance of core labour standards in calculating its indicators and some of the world's most notorious violators of CLS feature among *Doing Business*'s best performers under the category "Employing Workers". Nor does *Doing Business* give better scores or rankings to countries that offer adequate old-age pensions and other types of social protection. On the contrary, *Doing Business* gives worse scores to countries that require higher employers' contributions towards social security. These contributions are counted in two categories: (i) under the section "Employing Workers" as "nonwage labor costs" which include "all social security payments (including retirement fund; sickness, maternity and health insurance; workplace injury; …)"; and (ii) under the category "Paying taxes" as part of the "total tax rate", which includes "social security contributions and other labor taxes paid by the employer". The latter are counted in the country's overall *Doing Business* ranking, with a higher level of social security

[34] World Bank, *Doing Business in 2004* (Washington, 2003), p. xix
[35] World Bank news release, *Doing Business 2007: Business Becomes Easier Worldwide; African Nations Push Through Regulatory Reforms* (Washington, September 2006)
[36] World Bank, *Country Policy and Institutional Assessments: 2005 Assessment Questionnaire* (Washington, December 2005), p. 29-30.

contributions resulting in worse rankings. By counting the *Doing Business* labour market indicators as part of the CPIA, which determines access to concessionary funds, the World Bank is perversely rewarding countries that violate good labour and social standards while claiming to do exactly the opposite.

33. By 2007, the Bank's Human Development Network had incorporated the application of the *Doing Business* indicators into the Bank's overall labour markets strategy through a programme called MILES: "the MILES framework will make use of … Doing Business … to develop the policy instruments to create a more employment-friendly climate for business".[37] Given the growing reference in World Bank programmes to the *Doing Business* labour indicators, it is not surprising that their use has increased to become the basic template used to justify and design labour market deregulation, not only by the World Bank but also by the IMF. Several recent cases illustrating this use are presented in the following paragraphs. A previous report produced by the ICFTU in 2006 described cases concerning seven countries: Bolivia, Colombia, Ecuador, Lithuania, Nepal, Romania and South Africa.[38] Sixteen additional country cases are presented below, all taken from IMF or World Bank country policy reports dated from October 2006 to July 2007.

IMF and World Bank's use of *Doing Business* to pressure for elimination of workers' protection: 16 new country cases

Algeria

34. In its February 2007 Article IV Consultation for Algeria, the IMF refers to two-year-old *Doing Business 2006* indicators (which apply to January 2005), to support the need "to improve the business climate for private enterprise". Furthermore a *Selected Issues* paper produced by the IMF argues on the basis of the country's "relatively high" *Doing Business* labour market rigidity indicator that Algeria should increase labour market flexibility by "shortening the notification period and the length of the procedure for dismissal, lowering employer contributions intending to allow laid-of workers to receive unemployment benefits, … and allowing the employer to choose which workers to lay off without constraints".[39] "Decentralized wage negotiations" are also proposed as a means to achieve the more business-friendly climate, even though *Doing Business* does not measure anything having to do with collective negotiating arrangements in countries.[40] As noted in our analysis in paragraph 25, the general message of *Doing Business* that labour market deregulation is a good thing tends to be interpreted as concerning labour market regulations and institutions that go well beyond the specific regulations that *Doing Business* purports to analyze.

[37] World Bank, *The World Bank and the Social Dimension of Globalization: An Update to the Board on the Bank's Activities on Employment and Collaboration with the ILO* (Washington, April 2007), p. 24. "MILES" is an acronym in which the "I" stands for "investment climate, institutions and infrastructure".
[38] ICFTU, *How the World Bank and IMF Use the Doing Business Report to Promote Labour Market Deregulation in Developing Countries* (Washington, 2006)
[39] IMF, *Algeria: Selected Issues* (Washington, February 2007), p. 28
[40] IMF, *Algeria: Article IV Consultation Staff Report* (Washington, February 2007), p. 13

Antigua and Barbuda

35. The IMF's Article IV Consultation report for Antigua and Barbuda presents graphs, based on *Doing Business* data, showing that the country has a relatively low (i.e. "good") ranking as to overall cost of doing business, "but the cost of dismissals is high'", which it strives to prove by presenting comparable cost-of-dismissal indicators for four other countries that have lower indicators than Antigua and Barbuda. The four countries presented are Belize, Estonia, Iceland and Mauritius, only one of which is remotely in the same region as Antigua and Barbuda. The IMF invokes these figures when it notes that "a stagnant working-age population and labor shortages pose challenges for labor market policy", and suggests that "reform of regulations, including for dismissals" will help meet this challenge.[41] One can only speculate as to how IMF staff – who frequently concede to trade union delegations they have no expertise in labour market issues – developed their puzzling theory that making it easier to fire workers will resolve problems of labour shortages in Antigua and Barbuda. The Article IV report offers no explanation.

Burkina Faso

36. A recent IMF loan review document on for Burkina Faso underlines the need to "improve the business environment" as determined in the *Doing Business* survey, even though it is noted that "the authorities dispute some of the numbers being used" in the Doing Business report. In order to improve the country's *Doing Business* score, the IMF asserts the need for "enhancing labor market flexibility" and "reconsidering the labor code".[42] A subsequent World Bank loan document states that part of the 2007 Poverty Reduction Support Credit loan will be used to "improve business environment", and the *Doing Business* "rigidity of employment index" will be one of the four monitoring indicators used to determine whether the objective has been achieved.[43]

Czech Republic

37. The IMF's latest Article IV report presents a table derived from *Doing Business* and states that "a recent World Bank assessment suggests that doing business in the Czech Republic is considerably more onerous than in many EU economies". The IMF notes that "the business sector views the new labor code as a missed opportunity for a substantive improvement in labor market flexibility" and then overtly takes the side of employers in asserting that "a more flexible labor market is needed to enhance growth potential". The IMF specifically calls for "reforms of social benefit entitlement programs [which] would improve incentives to work" and "reforms in the area of employment protection".[44] The IMF implies that *Doing Business* supports the need for labour market

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[41] IMF, *Antigua and Barbuda: 2006 Article IV Consultation Staff Report* (July 2007), p. 16-17
[42] IMF, *Burkina Faso: Sixth Review Under the Arrangement Under the PRGF* (Washington, October 2006), p. 15 & 24
[43] World Bank, *Program Information Document: Concept Stage, Report No. AB2797* (Washington, January 2007), p. 4
[44] IMF, *Czech Republic: 2006 Article IV Consultation Staff Report* (Washington, February 2007), p. 16, 17 & 19

reform by invoking the issue just before a paragraph describing the Czech Republic's "onerous" climate for business. In fact, an examination of the *Doing Business 2007* labour market indicators shows that the Czech Republic had a lower ranking in this category than its eight closest neighbouring countries.

Georgia

38. *Doing Business 2007* designated Georgia as the "top reformer" of the year for its "far-reaching reform of labor regulation" and *Doing Business 2008* repeats praise for Georgia as a model labour law reformer. Among the features of the 2006 reform that *Doing Business* found laudable are a new law that "discards the premium required for overtime work [and] eliminates the requirement to notify and get permission from the labor union to fire a redundant worker".[45] *Doing Business* confidently affirms that by making easier for companies to dismiss workers, "Georgia's new labor regulations help workers move to better jobs". It provides no data to back up this assertion, which is not surprising since both poverty and unemployment rates were higher in 2006 than two years earlier.[46] Nor does it mention that the government of Georgia refused to consult the social partners – trade unions and employers – on the far-reaching reform, in spite of ILO advice that it do so, or that the ILO advised the government of inconsistencies with Conventions 87 and 98, which are two of the ILO's core labour standards conventions. Instead, *Doing Business 2008*, launched in September 2007, singles out Georgia as a country where "workers … have the best protection".[47]

Greece

39. Citing the *Doing Business* labour market indicators for Greece, the IMF's Article IV report for the country called for "further reform" of labor markets so as to improve the business climate. Among the reforms the IMF urges are "relaxation of strong employment protection legislation and decentralization of the bargaining system".[48] As noted in another case, *Doing Business* does not claim to measure particular collective bargaining arrangements, but the general message of *Doing Business* that any kind of labour institution or regulation is bad has been used to preach against all forms of centralized or coordinated collective bargaining. Such a blind prejudice against coordinated bargaining may counteract the very goal of employment creation that *Doing Business* claims to espouse. The most extensive research that the World Bank carried out on the impact of collective bargaining found that "countries with highly coordinated collective bargaining tend to be associated with lower and less persistent unemployment".[49]

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[45] World Bank, *Doing Business 2007* (Washington, 2006), p. 1 & 19.
[46] IMF, *Georgia: Sixth Review Under the Three-Year Arrangement Under the PRGF* (Washington, August 2007), p. 13 & 15
[47] World Bank, *Doing Business 2008* (Washington, 2007), p. 19
[48] IMF, *Greece: 2006 Article IV Consultation Staff Report* (Washington, January 2007), p. 13 & 18
[49] Aidt & Tzannatos, *Unions and Collective Bargaining: Economic Effects in a Global Environment* (World Bank, Washington, 2002), p. 12

Jordan

40. The IMF's latest Article IV report for Jordan observes that "the World Bank's latest Doing Business Survey has shown slippages in most areas", and advises Jordan to engage in "increasing labor market flexibility by … easing hiring and firing legislation".[50] The IMF makes no mention of recent reports documenting widespread abuse of workers in Jordan, particularly among migrant workers in export processing zones.[51] The IMF's insistence that Jordan make it easier for firms to fire workers could counteract efforts that the ILO has undertaken, working jointly with the Jordanian government, to end this abuse. As in the numerous other countries where the IMF and World Bank urge labour market flexibility on the basis of *Doing Business* scores they judge to be faulty, no account is taken of the social and economic costs of eliminating labour market regulations.

Kyrgyzstan

41. Kyrgyzstan's "Employing Workers" indicator as calculated by *Doing Business* is referred to in the latest World Bank Country Support Strategy. In its most recent loan review reports for the country, the IMF also invokes *Doing Business* and goes a step further than the Bank by requiring Kyrgyzstan to undertake a labour law reform approved by the Fund as a loan condition. The following obligation is included as a "structural benchmark" in the structural conditionality that Kyrgyzstan must meet for its IMF loan: "Submit to IMF staff a report prepared by the ministry of labor and social protection recommending measures to improve labor market flexibility".[52]

Lesotho

42. In its most recent Article IV Consultation report for Lesotho, the IMF encourages the government to reduce the cost of doing business in the country. Among several other measures, the IMF takes aim at wage levels and says that it favours "downward flexibility of real wages" in Lesotho so as to "improve competitiveness".[53] The IMF does not discuss what impact the impoverishment of Lesotho's workers will have on overall poverty levels in a country where many extended family members often depend on income from a sole wage-earner. The Article IV report for Lesotho also fails to mention that wage levels in Lesotho are already lower than other countries in the Southern African region. For example, wages in Lesotho's important garment manufacturing sector are less than a third of those in neighbouring South Africa. The IMF does point out Lesotho's low wage levels in its Article IV report for Swaziland, where, in an attempt to pressure the government there to "reduce the cost of doing business", it provides data showing that wages in Lesotho are only half of those in Swaziland.[54]

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[50] IMF, *Jordan: Article IV Consultation Staff Report* (Washington, March 2007), p. 17

[51] See Solidarity Center, *The Struggle for Worker Rights in Jordan* (Washington, December 2005), and ITUC, *Annual Survey of Violation of Trade Union Rights 2007* (Brussels, 2007)

[52] IMF, *Kyrgyz Republic: Article IV Consultation Staff Report* (Washington, March 2007), p. 29-30

[53] IMF, *Kingdom of Lesotho: Article IV Consultation Staff Report* (Washington, November 2006), p. 16-17

[54] IMF, *Kingdom of Swaziland: Article IV Consultation Staff Report* (Washington, March 2007), p. 14-15

Macedonia

43. *Doing Business 2007*, which was published in September 2006, praises Macedonia for having "followed a similar path" to Georgia by engaging in far-reaching labour regulation reforms. *Doing Business* notes that the new labour code "extends the maximum duration of term contracts"; "reduces both the notice period and the severance pay for dismissal"; "allows businesses to use 150 hours of overtime in a year, at normal wages"; and "scraps earlier regulations offering numerous perks to trade union leaders".[55] All of these reforms were not sufficient for the World Bank however, since six months after the publication of *Doing Business*, it issued a demand that Macedonia continue "increasing labor market flexibility", this time in the Bank's Country Partnership Strategy (CPS) for Macedonia. According to the CPS, Macedonia should further deregulate the labour market in order to "improve the business climate" and be "consistent with the MILES framework".[56] Strangely, the same document cites the results of a business environment survey showing that labour regulations were only the fifteenth obstacle mentioned by owners of firms, well below concerns such as cost of financing, contract violations, corruption, functioning of the judiciary, uncertainty about regulations and crime. The CPS for Macedonia does not address most of these concerns but does emphasise the need for more flexible labour markets, even though the new labour code was enacted in 2005.

Madagascar

44. Madagascar's most recent Country Assistance Strategy (CAS), prepared in March 2007 by the World Bank, asserts on the basis of the *Doing Business 2006* scores (which are based on January 2005 data – no reason is given why two-year-old data are used even though newer ones were available since September 2006) that "government regulations still remain burdensome". It further states that "Madagascar needs to … increase labor flexibility" and that current labour market institutions constitute a "bottleneck to investment and growth".[57] No explanation is given in the CAS for attributing this negative economic impact to Madagascar's labour market institutions. One learns from the CAS that the World Bank will carry out a labour market review, but only in fiscal 2008. It appears that the Bank already has its mind made up that labour market institutions need a major overhaul even before studying the matter. Madagascar's ranking for the *Doing Business 2006* "Employing Workers" index is also cited in the IMF's July 2007 Article IV Consultation report for the country.

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[55] World Bank, *Doing Business 2007* (Washington, 2006), p. 19
[56] World Bank, *Country Partnership Strategy for FYR Macedonia* (Washington, March 2007), p. 7 & 10
[57] World Bank, *Country Assistance Strategy for the Republic of Madagascar* (Washington, March 2007), p. 12, 17 & 38

Mauritius

45. We noted in other cases above that *Doing Business* scores are sometimes used to justify a dismantling of coordinated or centralized collective bargaining arrangements, following the logic that any kind of labour market deregulation is good, even though *Doing Business* does not purport to deal with collective bargaining issues. The World Bank did this in its CPS for Mauritius, which announces that the Bank will provide a Development Policy Loan for "reforming the labor market", one facet of which will be "overhauling the current tripartite wage-setting machinery".[58] The overall aim of the reform, according to the CPS, "is to secure a position for Mauritius in the top ten most investment- and business-friendly locations in the world (according to the *Doing Business* survey)". The IMF joined in the chorus in its subsequent Article IV report for Mauritius, making it clear that the ultimate aim was to put downward pressure on wages: "labor market reforms must unfold as planned, with a view to increase wage flexibility".[59]

Mozambique

46. In common with some other countries described above, Mozambique recently introduced labour law reform, in 2006, but also in common with those countries, the World Bank continued pressuring the country to further deregulate its labour market so as to improve its *Doing Business* ranking. The Bank's 2007 CPS for Mozambique includes a Labor Market Reform project for this purpose. An earlier *Mozambique Country Economic Memorandum* published by the Bank had looked into Mozambique's labour market institutions and found that "the causation between labor market flexibility and employment growth is not always clear"; "evidence is lacking as to whether restrictive labor regulation is a binding constraint in Mozambique"; and there is "lack of evidence about potential losers from the [reform] process".[60] Despite the World Bank study expressing doubt as to whether labour market deregulation will have positive economic results, the CPS states that Mozambique's 2006 reform "falls short of the changes necessary" because it does not sufficiently reduce Mozambique's labour market rigidity ranking as calculated by *Doing Business*.[61]

Peru

47. The World Bank's CPS for Peru states that "making the labor code flexible" is among its four main priorities, the reason being that "Doing Business 2007 data ranks Peru poorly" and that, notably, "labor regulations are among the most cumbersome in the world". The CPS gives examples of how Peru's *Doing Business* labour market indicators are higher than the regional average and, especially, "the English-speaking industrialized countries average". The report specifically mentions the need to reduce firings costs and

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[58] World Bank, *Country Partnership Strategy for Republic of Mauritius* (Washington, October 2006)
[59] IMF, *Mauritius: Article IV Consultation Staff Report* (Washington, June 2007) p. 20
[60] World Bank, *Mozambique Country Economic Memorandum* (Washington, September 2005), p. 41
[61] World Bank, *Country Partnership Strategy for Republic of Mozambique* (Washington, April 2007), p. 53

non-wage costs and announces a special "Doing Business loan" to be implemented in fiscal year 2010 to address the alleged "constraints to growth". Strangely, the CPS also reports: "Peru has been the highest performer among developing countries in the region in GDP growth".[62] It provides no analysis explaining how, in this context of high growth, supposedly cumbersome labour regulations constitute a constraint to growth. Nor does it explain by how much Peru's rate of growth with increase as a result of their elimination, or what the negative impact of the elimination of labour regulation will be on workers' wages and living conditions, on poverty levels or on income inequality.

Slovenia

48. Slovenia is generally considered one of the most successful transition economies of Central and Eastern Europe (CEE) in terms of overall prosperity and labour market performance. Slovenia's GNP per capita is 55 per cent higher than that of the second most prosperous CEE country, Czech Republic, and its 2006 unemployment rate of 6 per cent is well below that of any other CEE country (the next lowest, Czech Republic, is slightly over 7 per cent). Slovenia's 6 per cent unemployment is also significantly lower than the average in the European Union's original fifteen Western European members (the EU 15), whose average unemployment was 7.4 per cent in 2006.[63] But one doesn't learn any of this from reading the IMF's latest Article IV Consultation report for the country, which instead harps on Slovenia's unsatisfactory *Doing Business* indicators as compared to some other European countries. The IMF claims that the "high cost of doing business and rigid labor markets have distracted foreign direct investment" and that therefore "structural reforms are needed in labor markets … to reduce the high cost of employment protection legislation".[64] Some of Slovenia's economically less successful CEE neighbours have adopted the kind of labour market deregulation policies promoted by *Doing Business* and the IMF. Evidently, the IMF is not troubled by lack of success elsewhere when it calls on Slovenia to dismantle its workers' protection regulations.

Timor-Leste

49. Repeating similar language found in many other IMF Article IV reports, the report prepared for Timor-Leste reprimands the country for its poor *Doing Business* scores: "The World Bank ranks Timor-Leste as one of the most difficult countries for doing business." The assertion is supported by including a table with data from *Doing Business* comparing Timor-Leste's rankings in different categories, including for "Employing Workers", with those of some other countries and regions. The table shows that, for most categories, Timor-Leste has a worse *Doing Business* score than neighbouring Indonesia. However such is not the case for "Employing Workers", where Timor-Leste's rank is twenty-five countries better than that of the neighbouring country. Nevertheless, the IMF, which often admits that is has no expertise in labour matters, singles out the need

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[62] World Bank, *Country Partnership Strategy for Republic of Peru* (Washington, December 2006), p. 8, 17, 54 & 94

[63] OECD, *OECD Statistics* data base (Paris, 2007) and World Bank, *2007 World Development Indicators* (Washington, 2007)

[64] IMF, *Republic of Slovenia: Article IV Consultation Staff Report* (Washington, May 2007), p. 18, 20 & 22

for new legislation to "encourage greater labor market flexibility" as one of the two priority areas in Timor-Leste where "greater efforts are needed to create an environment that encourages private investment and growth".[65]

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[65] IMF, *Democratic Republic of Timor-Leste: Article IV Consultation Staff Report* (Washington, February 2007, p. 10 & 21