



EXTENDING FORCED LABOUR INITIATIVES

A global research agenda

ESRC/GCRF STRATEGIC NETWORK ON LEGAL REGULATION OF UNACCEPTABLE FORMS OF WORK

Unacceptable work: global dialogue / local innovation

The **UN International Labour Organization (ILO)** has called for workers around the world to be protected from **unacceptable forms of work (UFW)**: jobs that “deny fundamental principles and rights at work, put at risk the lives, health, freedom, human dignity and security of workers or keep households in conditions of extreme poverty”¹ This ILO policy agenda responds to the growth in insecure and low paid labour across the global work force. Sustaining productive and protected working lives is among the most pressing challenges of the early twenty-first century. The urgency of this objective was recently confirmed by the inclusion of the Decent Work objective among the **UN Sustainable Development Goals (SDG8)**.²



The Strategic Network identifies and responds to Global Regulatory Challenges: the most urgent and complex issues that face lower-income countries in upgrading or eliminating UFW.



Effective labour regulation is crucial to securing decent work. Yet the regulatory strategies that can eliminate unacceptable work – most urgently in lower-income countries - have yet to be identified.³ **The ESRC/GCRF Strategic Network on Legal Regulation of Unacceptable Forms of Work** responds to this urgent need by supporting a dialogue on UFW regulation.

The Network has brought together a **team of researchers and policy-makers from a range of disciplines and from the global North and South**. Network Teams are focused on identifying and responding to Global Regulatory Challenges: the most urgent and complex issues that face lower-income countries in upgrading or eliminating UFW. A set of Challenges have been identified and **Research Agendas** developed to investigate each Challenge through cross-regional comparisons of countries of different income levels.

The global regulatory challenge: forced labour initiatives as an entry point for UFW regulation

Eradicating forced labour is among the central challenges of contemporary world of work. In recent decades, innovative **legal frameworks** have been designed that have had considerable success.⁴ This outcome suggests that legal regimes on forced labour might be extended or adapted to regulate **other dimensions of UFW**.

The potential to build on forced labour frameworks to tackle other dimensions of unacceptability has therefore been identified by the Strategic Network as a **Global Regulatory Challenge**.

Enforcing forced labour initiatives: a Research Agenda

During 2017, the Strategic Network on Legal Regulation of Unacceptable Forms of Work was funded by the UK Economic and Social Research Council through the Global Challenges Research Fund to design **Research Agendas** on combating unacceptable work. The purpose of the Research Agendas is to identify the **most effective research strategies** that can (1) illuminate the Global Regulatory Challenges and (2) identify the most effective legal and policy responses.

This **Research Agenda on Extending Forced Labour Initiatives** outlines a strategy for investigating how to extend or adapt forced labour frameworks to tackle other forms of UFW.

1. ILO Towards the ILO centenary: realities, renewal and tripartite commitment (2013); <http://www.ilo.org/global/topics/dw4sd/theme-by-policy-outcomes/>.
2. <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>
3. See further Judy Fudge and Deirdre McCann Unacceptable forms of work: a global and comparative study (ILO 2015); Deirdre McCann and Judy Fudge 'Unacceptable forms of work: a multidimensional model' (2017) 156(2) *International Labour Review* 147-184.
4. ILO Strengthening action to end forced labour (2014); Nicola Phillips and Fabiola Mieres 'The governance of forced labour in the global economy' (2015) 12(2) *Globalizations* 244-260.

The Strategic Network Team

The Research Agenda has been designed by a **Strategic Network Team** that includes researchers and policy actors from across the world.

To ensure the **interdisciplinary** mix of skills needed to address the complexity of UFW, the researchers were drawn from different academic disciplines.

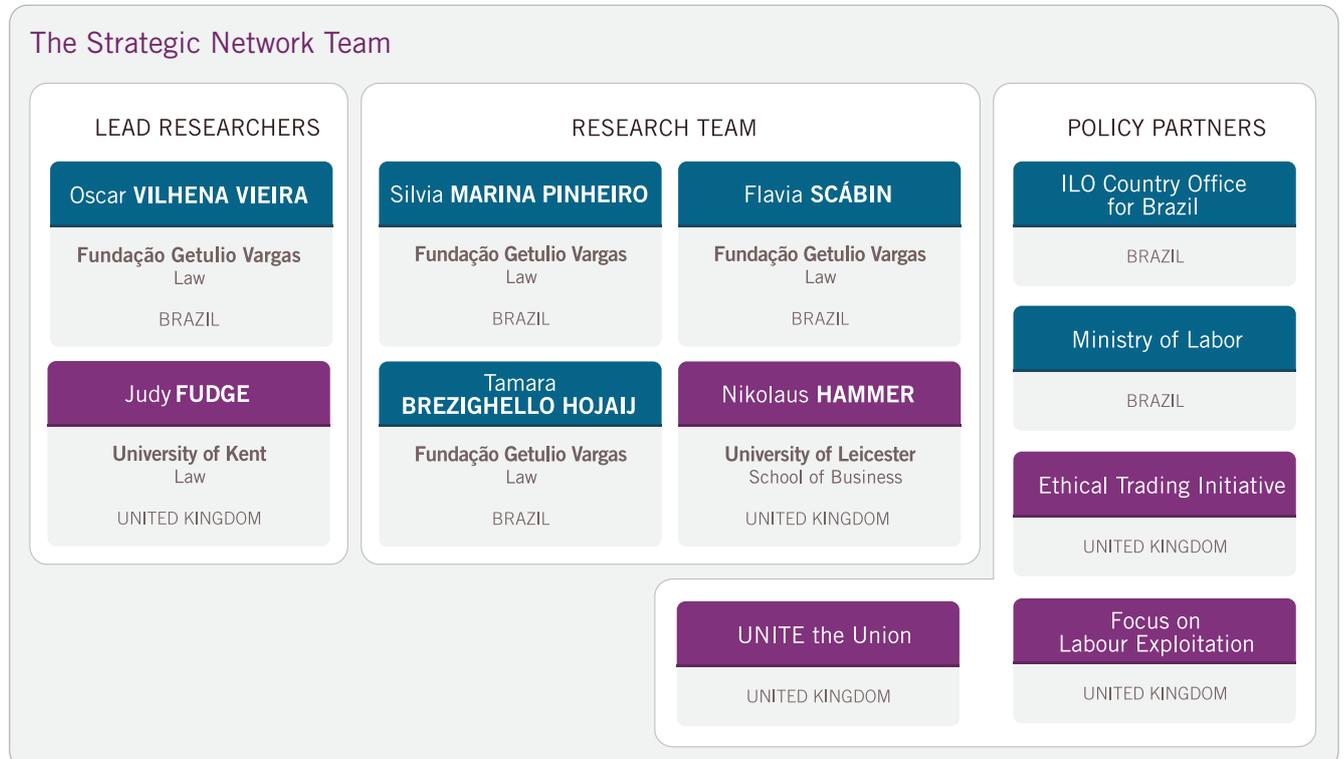
Local **policy actors** were a core part of the Team, contributing direct and up-to-date knowledge of the policy context and advising on methods to convert research findings into concrete policy impacts.

RESEARCH OBJECTIVES

The **overall objective** of the Research Agenda is to identify frameworks and mechanisms on forced labour that can be used as a gateway to broader enforcement of labour standards and social upgrading.

The key objectives are:

- to identify **flagship legal initiatives on forced labour**, with a particular focus on **supply chain accountability** mechanisms.
- to examine which elements of these frameworks are effective in prompting firms to develop and implement **due diligence practices**. These should ensure the eradication of forced labour but the promotion of decent work throughout the supply chain.
- to identify the kinds of labour **enforcement activities** that are needed.
- to establish **a new paradigm of business responsibilities** to prevent UFW in supply chains.



METHODOLOGY

To achieve the research objectives, the methodology must combine an **analysis of regulatory frameworks on forced labour** with an **empirical investigation of their operation**. This socio-legal methodology would map the regulatory regimes and mechanisms that promote **supply chain accountability** and **strategic enforcement**. It would also consider the application of the **international regulatory frameworks** that have been developed to promote the eradication of labour violations by business e.g. the *Guiding Principles on Business and Human Rights* (2011), *Global Compact* (2000), and ILO International Labour Standards.

The **use of a range of research methods** is essential, including semi-structured interviews with key stakeholders (ethical trade managers in lead firms, manufacturers, local authorities, trade unions, community representatives etc.), documentary and statistical analyses, and corporate/value chain mapping.

EXTENDING FORCED LABOUR INITIATIVES: ACHIEVING LEGAL REFORM

A central objective of the Strategic Network on Legal Regulation of UFW is to **support policy-actors in designing regulatory interventions that will improve workers' lives**.

Research on the extension of forced labour initiatives should aim to **generate impacts at the national and international levels** by influencing regulatory policy and enforcement strategies. The aim should be:

- to **influence public policy and labour standards enforcement**
- to **build the capacity of stakeholders** to monitor and enforce compliance with labour and human rights standards in supply chains
- to help to develop **prototype supply chain accountability mechanisms**
- to help to develop **proactive enforcement strategies**

Policy actors should be included in all elements of the research. Key outcomes should be **guidance for policy-makers** on how to enhance supply chain accountability; **capacity-building of firm representatives**, to influence corporate practices on supply chain accountability and strengthen monitoring and enforcement in supply chains; training and capacity-building of the **social partners and NGOs**; and **international-level awareness-raising** activities of the potential for forced labour regimes to be harnessed to broader protective goals.

An illustration: Brazil and United Kingdom

Comparative research on the operation of regulatory frameworks is crucial to combat UFW and to derive global lessons from innovations at the country level. For this reason, the Strategic Network has concluded that future research should involve **comparisons** of countries at a range of income levels and in different regions.

A comparison on *Extending Forced Labour Initiatives* should focus on the most globally-significant legal innovations on forced labour. Both **Brazil and the United Kingdom**, for example, have introduced innovative new mechanisms in recent decades.

Brazil's experience in combating forced labour has been internationally recognised. It involves a multifaceted approach that has included the **prohibition of slave labour in the Penal Code**; the creation of the *lista suja* - or 'dirty list' – that publicly discloses the names of companies that use forced labour in their supply chains; a **Constitutional Amendment** in 2014 to allow **confiscation of property** from those who benefit from slave labour; the creation of a **Special Mobile Inspection Group** to identify and free victims of forced and slave labour; and the development of a **National Pact for the Eradication of Slave Labour**.

The **UK** has seen two landmark reforms. First, the **Modern Slavery Act 2015** was introduced to tackle forced labour including through a supply chain transparency mechanism that requires large companies to produce annual 'slavery and human trafficking statements' indicating the steps they are taking to prevent forced labour in their supply chains. Second, in 2016 a statutory **Director of Labour Market Enforcement** was created and the **Gangmasters and Labour Abuse Authority** was reformed to investigate abuse – including forced labour – across the entire UK labour market.⁵

Comparing data on the operation of these regulatory initiatives would be valuable to tackling UFW. The **garment sector** is a particularly promising focus. In **Brazil** – the world's fourth-largest apparel producer – many irregular migrant workers have been found to work informally in small-scale workshops in the lower tiers of outsourced production, with slave-like conditions and other severe human rights violations. The **UK** garment manufacturing is dominated by small firms, fragmented supply chains, a largely vulnerable workforce, the absence of enterprise-level industrial relations or worker representation, and poor conditions.⁶

Brazil and the U.K are diverse in terms of socio-economic development, legal systems and regulatory techniques, institutional regimes, and economic and labour market strategies. Yet together they have potential to generate **lessons on innovative legal techniques in UFW regulation** from a high- and low-income country. In particular, there are affinities in the recent initiatives in both countries to **require transparency in supply chains**. It would therefore be revealing to examine the efficacy of these regulatory frameworks to determine which **institutional features** could be introduced in other settings; which **civil society organisations** should be involved (e.g. community organisations, trade unions, training/placement institutions); and the kinds of **labour enforcement activities** that are needed. The focus would be on the **global lessons** to be derived from the experience of both countries.

5. Anne Davies 'The Immigration Act 2016' (2016) 45 *Industrial Law Journal* 431-442; Judy Fudge *Modern slavery and migrant domestic workers: the politics of legal characterization*. Policy Brief. (The Foundation for Law, Justice and Society (2016), available at www.fljs.org)
6. Nikolaus Hammer, Réka Plugor, Peter Nolan and Ian Clark *A new industry on a skewed playing field: supply chain relations and working conditions in UK garment manufacturing* (University of Leicester/CSWEF, Ethical Trading Initiative 2015); Nikolaus Hammer and Réka Plugor 'Near-sourcing UK apparel: value chain restructuring, productivity and the informal economy' 47(5-6) *Industrial Relations Journal* 402-416